

No. 122008

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF	)	Appeal from the Appellate Court of
ILLINOIS,	)	Illinois, No. 1-14-3150.
)	
Plaintiff-Appellee,	)	There on appeal from the Circuit
	)	Court of Cook County, Illinois , No.
-vs-	)	14 CR 11336.
)	
	)	Honorable
JEROME BINGHAM	)	Bridget Jane Hughes,
)	Judge Presiding.
Defendant-Appellant)	

BRIEF AND ARGUMENT FOR DEFENDANT-APPELLANT

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NATURE OF THE CASE

The trial court found Jerome Bingham guilty of theft, which was elevated to a Class 4 felony due to a previous retail theft conviction, after a bench trial. The court sentenced Bingham to a three-year term of imprisonment. The theft conviction also triggered sex offender registration based on a 1983 conviction for attempt criminal sexual assault. This is a direct appeal from the judgment of the court below. No issue is raised challenging the charging instrument.

ISSUES PRESENTED FOR REVIEW

I. Whether requiring Jerome Bingham to retroactively register as a sex offender for the rest of his life violates due process as applied to him because there is no reasonable relationship between Bingham's theft conviction for stealing six wooden pallets from a K-Mart lot and the Sex Offender Registration Act's (SORA) purpose of protecting the public from sex offenders, and Bingham is eligible for SORA based only on a single sex offense conviction that took place more than 30 years before the minor theft in this case.

II. Whether the 2012 amendment to Illinois' SORA that renders it retroactive to everyone previously convicted of a sex offense and then convicted of any felony on or after July 1, 2011, violates federal and state constitutional prohibitions against *Ex Post Facto* laws because the current version of Illinois' sex offender registration and notification scheme has a punitive effect that overcomes the legislature's intent to create a civil regulatory scheme.

STATUTES AND RULES INVOLVED

720 ILCS 5/11-9.4-1 (West 2017): full text in appendix.

730 ILCS 150/1 *et seq.* (West 2017): full text in appendix.

730 ILCS 152/101 *et seq.* (West 2017): full text in appendix.

STATEMENT OF FACTS

Jerome Bingham was convicted of theft based on evidence that on May 3, 2014, he took six pallets valued at \$12 each from the unfenced yard of a K-Mart. (C. 19, 29; R. D3-9, D32) The presentence investigation report (“PSI”) reflects that Bingham had the following criminal history:

Case Number	Offense	Date of Sentencing	Sentence
07 CR 1936001	Possession controlled substance	1/17/2008	1 year IDOC
05 CR 2623701	Possession controlled substance	1/18/2006	1 year IDOC
05120521	Possess title/registration	3/14/2005	2 days’ jail
04 C 33018001	Theft	6/2/2004	70 days’ jail
00 C 44053201	Retail theft	11/4/2002	30 months’ probation
00 CR 55901	Possession stolen vehicle	3/8/2000	18 months’ probation
01225524901	Retail theft	11/28/2000	20 days’ jail
99129034301	Retail theft < \$150	7/23/1999	15 days’ jail
99144265801	Violate order of protection	7/21/1999	1 year conditional discharge, 60 days’ jail

96 CR 210002	Possession controlled substance	5/10/1993	1 year IDOC
83 CR 148	Attempted criminal sexual assault	6/10/1983	4 years' IDOC

(C. 33-34) Because of his history, the theft was elevated to a Class 4 felony and Bingham, who had never before been subject to Illinois' sex offender registration and notification scheme, was classified and required to register as a sexual predator.¹

On appeal, Bingham argued in relevant part that the current version of Illinois' Sex Offender Registration Act ("SORA") violates due process as applied to him because there is no rational relationship between the minor theft of which he was convicted and SORA's purpose of aiding law enforcement by facilitating ready access to information about sex offenders and, therefore, to protect the public, where Bingham's history and the circumstances of the theft in this case do not indicate that he is at risk of committing another sex offense. In rejecting Bingham's argument, the appellate court decided that the theft conviction that triggered the registration requirement exhibited Bingham's "general tendency to return to his prior criminal behavior," which included a single conviction for attempted criminal sexual assault in a case from nearly three decades earlier.

¹ Illinois Sex Offender Registry Information (<http://www.isp.state.il.us/sor>, last visited October 4, 2017). For this Court's convenience, a printout of the search results for Bingham's name, which incorrectly lists Bingham's conviction as criminal sexual assault instead of attempted criminal sexual assault, is included in the appendix to this brief. (A-106)

People v. Bingham, 2017 IL App (1st) 143150, ¶24. The court thus found the legislature’s determination that Bingham posed a “potential threat of committing a new sex offense in the future” reasonable because Bingham had “committed a sex offense in the past for which he was not then required to register and has shown a recent, general tendency to recidivate by committing a new felony since the amendment of the Act in 2011[.]” *Id.* Based on this reasoning, the appellate court held that SORA’s registration requirement did not violate due process as applied to Bingham. *Id.*

Bingham also argued that the 2011 registration requirement violates the prohibition against *ex post facto* laws because SORA is no longer merely a regulatory scheme, but rather a new and ongoing punishment for an attempted sex offense that Bingham was convicted of more than three decades before the theft conviction in this case. Based on this Court’s precedent, the appellate court rejected Bingham’s argument and held “that the registration requirement is not a punishment and, thus, that the Act does not violate the *Ex Post Facto* clauses.” *Id.* at ¶¶28-30. This Court granted leave to appeal on May 24, 2017.

ARGUMENT

I. Requiring Jerome Bingham to retroactively register as a sex offender for the rest of his life violates due process as applied to him because there is no reasonable relationship between Bingham's theft conviction for stealing six wooden pallets from a K-Mart lot and SORA's purpose of protecting the public from sex offenders, and Bingham is eligible for SORA based only on a single sex offense conviction that took place more than 30 years before the minor theft in this case.

Jerome Bingham was convicted of misdemeanor theft, which was elevated to felony status because of a shoplifting conviction from 10 years earlier, based on evidence that he drove into the unfenced yard of a K-Mart, loaded six wooden pallets into his truck, and drove away. (C. 19; R. D3-16) As a result of this conviction, Bingham must register as a sexual predator for the rest of his life pursuant to the 2012 version of Illinois' Sex Offender Registration Act ("SORA"). 730 ILCS 150/3(c)(2.1) (West 2012). Retroactive registration is required solely because Bingham was convicted of attempt criminal sexual assault more than three decades ago, in 1983; he has never been convicted of another sex offense. Moreover, under Illinois' Sex Offender Community Notification Law ("Notification Law"), Bingham's name and photograph will now be posted for the rest of his life in the searchable database on Illinois' Sexual Offender Registration website above the label "Sexual Predator," which is underlined, bolded, and written in red.²

Requiring Bingham to register and have his personal information posted online for the rest of his life violates due process as applied in this case because there is no rational relationship between the minor theft of which Bingham was convicted and SORA's purpose of aiding law enforcement

² See note 1.

by facilitating ready access to information about sex offenders and, therefore, to protect the public. This Court should therefore hold that SORA's 2011 retroactivity provision is unconstitutional as applied to Bingham, and that he is not subject to SORA's registration requirements.

The legislature, pursuant to its police power, has discretion to determine what the public interest requires and what measures are needed to advance that interest, but this discretion is limited by the constitutional guarantee of substantive due process, which provides that a person may not be deprived of liberty without due process of law. *In re K.C.*, 186 Ill. 2d 542, 550 (1999); U.S. CONST. AMEND. XIV; ILL. CONST. OF 1970, ART. I, §2. Where, as here, legislation does not affect a fundamental constitutional right, courts apply rational basis review to determine whether a statute violates substantive due process. *People v. Wright*, 194 Ill. 2d 1, 24 (2000). Under rational basis review, a statute will be upheld only if it bears a rational relationship to a legitimate legislative purpose and is neither arbitrary nor discriminatory. *Village of Lake Villa v. Stokovich*, 211 Ill. 2d 106, 122 (2004). This review may be deferential, but “it is not ‘toothless.’” *People v. Boeckmann*, 238 Ill. 2d 1, 7 (2010).

Unlike a facial challenge, which requires the challenging party to demonstrate that the statute is unconstitutional under any set of facts, an as-applied challenge only requires demonstration that the challenged statute is unconstitutional “as it applies to the facts and circumstances of the challenging party.” *People v. Thompson*, 2015 IL 118151, ¶36. The appellate court correctly held that an as-applied constitutional challenge supported by a sufficiently developed record may be raised for the first time

on appeal. *People v. Bingham*, 2017 IL App (1st) 143150, ¶20, citing *People v. Gray*, 2016 IL App (1st) 134012, ¶35 (reversed on other grounds by *People v. Gray*, 2017 IL 120958, ¶¶54-67). As Bingham's claim turns on the legal question of whether SORA is unconstitutional as applied to him, this Court's review is *de novo*. *Boeckmann*, 238 Ill. 2d at 7. Although statutes should be construed to uphold their constitutionality if reasonably possible, it is equally the duty of the courts to declare an unconstitutional statute invalid. *People v. P.H.*, 145 Ill. 2d 209, 221 (1991).

SORA was enacted in 1996 (Pub. Act 87-1064, eff. January 1, 1996), more than ten years after Bingham's conviction for attempted criminal sexual assault. (C. 34) At that time, Bingham was not required to register because the timing of his offense did not fall within SORA's temporal reach. 730 ILCS 150/3(c)(1), (2), (3) (West 1996). But, in 2012, Public Act 97-578 amended the statute by adding subsection (c)(2.1), which states:

A sex offender or sexual predator, who has never previously been required to register under this Act, has a duty to register if the person has been convicted of any felony offense after July 1, 2011. A person who previously was required to register under this Act for a period of 10 years and successfully completed that registration period has a duty to register if: (i) the person has been convicted of any felony offense after July 1, 2011, and (ii) the offense for which the 10 year registration was served currently requires a registration period of more than 10 years.

730 ILCS 150/3 (West 2012) (effective January 1, 2012). This retroactivity clause renders everyone who has ever been convicted of an eligible sex offense, including Jerome Bingham, automatically subject to the current version of SORA and the Notification Law if they are convicted of any felony on or after July 1, 2011. Moreover, under the current version of section 150/2(E),

paragraphs (1) and (7), Bingham is defined as a “sexual predator,” which requires lifetime registration under section 150/7. 730 ILCS 150/2 (West 2017)

It is well settled that SORA’s purpose “is to aid law enforcement by facilitating ready access to information about sex offenders and, therefore, to protect the public.” *People v. Pearse*, 2017 IL 121072, ¶41. Bingham concedes that this purpose is legitimate. However, this Court should nonetheless hold that SORA violates due process as applied in this case because subjecting Bingham to these restrictions does not rationally advance the purpose of the laws.

In 1983, when he was 24 years old, Bingham was convicted of attempted criminal sexual assault against an 18-year-old.³ (C. 30, 34) Bingham has never been convicted of another sex offense, and he was 56 years old and married with three adult children by the time he was convicted of the theft that resulted in this case. (C. 30-36) At trial, Bingham testified that although he took the pallets from K-Mart, it was not a theft because he had been given permission by someone who worked at K-Mart. (R. D4) The misdemeanor offense triggered SORA’s retroactivity provision because of a shoplifting conviction from 14 years earlier that elevated the offense to a felony. (C. 19, 34) There is absolutely nothing about these facts to suggest that Bingham poses any more risk of committing another sex offense than a person who was not convicted of theft. Yet, as a result of his minor theft conviction, Bingham is now subject to a statutory scheme that requires

³ See note 1.

in-person registration of a tremendous amount of information (730 ILCS 150/6 (West 2017)), banishes him and others in his situation from public parks (720 ILCS 5/11-9.4-1 (West 2017)), and publishes their names, photographs, and personal information on the Internet above the bright red words “Sexual Predator” (730 ILCS 152/115 (West 2017)).

Bingham acknowledges that this Court generally pays great deference to the legislature, and that statutes will thus be upheld under the rational basis test as long they bear a rational relationship to a legitimate legislative purpose. *People v. M.A.*, 2015 IL 118049, ¶35. However, as the current version of Illinois’ SORA well demonstrates, “left unchecked, drafters will test constitutional boundaries with ever-broadening legislation.” Catherine L. Carpenter & Amy E. Beverlin, *The Evolution of Unconstitutionality in Sex Offender Registration Laws*, 63 HASTINGS L.J. 1071, 1075 (May 2012) (cited as “Carpenter I”). That reality is precisely why “the assertion of a valid governmental interest ‘cannot, in every context, be insulated from all constitutional protection.’” *Packingham v. North Carolina*, 582 U.S. ___, 137 S. Ct. 1730, 1736 (2017).

Moreover, public contempt for sex offenders has created a one-way political street with “no countervailing force or lobby that might temper or modify possibly misguided policy measures.” Wayne A. Logan, *Megan’s Laws as a Case Study in Political Stasis*, 61 Syracuse L. Rev. 371, 386 (2011) (cited as “Logan”); *see also* Carpenter I at 1076 (“Without judicial intervention to set boundaries, legislators will continue to respond to the community’s collective fear with expanding laws that punish the sex offender.”); Ira Mark Ellman and Tara Ellman, *‘Frightening and High’: The Supreme Court’s*

Crucial Mistake About Sex Crime Statistics, 30 Constitutional Commentary 495, 508 (2015). (Available at SSRN: <https://ssrn.com/abstract=2616429>) (“The label ‘sex offender’ triggers fear, and disgust as well. Both responses breed beliefs that do not yield easily to facts.”). “[A]dherence to substantive due process principles demands that governmental actions must not offend ‘canons of decency and fairness ... even toward those charged with the most heinous offenses.’” *Carpenter I* at 1123, quoting *Rochin v. California*, 342 U.S. 165, 169 (1952)).

In discussing recent amendments, one commentator noted that sex offenders have become so despised in Illinois “that finding new ways to regulate them has ... become a ‘rite of spring’ for legislators...” Michelle Olson, *Putting the Brakes on the Preventive State*, 5 NW J. L. & SOC. POL’Y 403, 416 (Fall 2010). However, as another commentator pointed out, “legislation derived from emotionally-based incentives is fraught with dangers in drafting.” Catherine Carpenter, *Legislative Epidemics: A Cautionary Tale of Criminal Laws that have Swept the Country*, 58 Buff. L. Rev. 1, 40 (2010) (cited as “Carpenter II”).

This Court has already encouraged the legislature to clarify part of the registration and notification scheme. *Pearse*, 2017 IL 121072, ¶48. This case, however, calls for much more than mere clarification. Bingham is being required to register as a sex offender not because his behavior suggests he is at high risk for committing sex offenses in the future, but because he was convicted of stealing six wooden pallets from a K-Mart parking lot (C. 34), which triggered application of the 2012 amendment. That violates due process because the guarantee of substantive due process

was “intended to secure the individual from the arbitrary powers of government.” *Hurtado v. California*, 110 U.S. 516, 527 (1884).

Instructive here is *People v. Lindner*, 127 Ill. 2d 174 (1989). In *Lindner*, the defendant’s driver’s license became subject to mandatory revocation under several provisions of the Illinois Vehicle Code after Lindner pled guilty to three sex offenses, none of which involved a vehicle. 127 Ill. 2d at 176-177. The trial court granted Linder’s motion to declare applicable provisions of the Illinois Vehicle Code unconstitutional in violation of his due process rights. *Id.* at 177. On appeal, this Court first identified the purpose of the challenged statute: to protect against drivers who threatened the safety of others, and drivers who had abused the privilege of driving either by doing so illegally or by using a vehicle to commit a criminal act. *Id.* at 182. This Court then determined that revocation of the defendant’s driver’s license bore no reasonable relationship to that purpose because “a vehicle was not involved in any way in the commission of the offenses for which defendant was convicted[.]” *Id.*

Continuing, this Court held that the method used to further the public interest was not reasonable because taking licenses away from drivers who had committed offenses not involving vehicles was “not a reasonable means of ensuring that the roads are free of drivers who operate vehicles unsafely or illegally.” *Id.* at 183.

To the contrary, the means chosen are arbitrary, not only because the offenses specified in section 6-205(b)(2) have no connection to motor vehicles, but also because the inclusion of those offenses and no others is arbitrary. That is, no reason suggests itself as to why the legislature chose the particular offenses enumerated in section 6-205(b)(3), as opposed to other offenses not involving a vehicle.

Lindner, 127 Ill. 2d at 183. For all of these reasons, this Court held that “the challenged provision [wa]s an unreasonable and arbitrary exercise of the State’s police power in violation of the constitutional guarantee of due process and is therefore invalid.” *Id.* This Court also noted that “[i]f the legislature may punish these offenses with revocation, nothing prohibits it from imposing that penalty for violating *any* provision of the Criminal Code, a result that would be plainly irrational.” *Id.* at 185.

Here, as in *Lindner*, there is absolutely no connection between the minor theft of which Bingham was convicted and the threat that Bingham is likely to commit a sex offense. Instead, as the legislative history reflects, Public Act 97-578 added subsection (c)(2.1) to SORA in an effort to ensure that everyone who had previously been convicted of a sex offense would be required to register under SORA if they subsequently committed *any* felony or misdemeanor offense, regardless of how long ago the original offense took place and whether they had since committed any new sex offenses. *See* 97th Ill. Gen. Assem., House Proceedings, March 31, 2011, at 151, 155. Such overreaching is precisely what this Court condemned in *Lindner*. It also demonstrates the need for this Court’s intervention.

Indeed, the problem is well illustrated by *People v. Johnson*, where this Court considered the constitutionality of an earlier version of SORA under which defendants convicted of aggravated kidnaping of a minor were classified as sex offenders even if the offense was not sexually motivated. 225 Ill. 2d 573, 575-585 (2007). Such offenders were required to register for 10 years. 730 ILCS 150/2(B)(1.5), 150/7 (West 2002). The appellate court held that the statute violated due process as applied to Johnson because

the record showed that his particular offense was not sexually motivated. *Johnson*, 225 Ill. 2d at 577-578. In reversing, this Court first found that SORA's purpose "is to aid law enforcement by facilitating ready access to information about sex offenders and, therefore, to protect the public." *Id.* at 685. This Court then noted that Illinois' General Assembly expanded SORA's definition of sex offense to include aggravated kidnaping of a minor by a nonparent because it "recognized that aggravated kidnaping can be a precursor to sex offenses against children." *Johnson*, 225 Ill. 2d at 591. This Court held the challenged provision satisfied rational basis. *Id.*

In contrast to the situation in *Johnson*, the legislation at issue here does not advance a supportable rationale. Instead, it demonstrates irrational overreaching that may not be left unchecked in this case. While it may, as in *Johnson*, have been rational to require 10 years of registration for a violent crime committed against a minor, it is wholly irrational to require lifetime registration for a man convicted of a minor theft offense whose only sex offense was an attempt sexual assault that took place more than 30 years ago. This Court should therefore reverse the appellate court, hold that SORA's 2011 retroactivity provision violates due process as applied to Bingham, and order that he be relieved of the obligation to register as a sex offender.

II. The 2012 amendment to Illinois' Sex Offender Registration Act (SORA) that renders it retroactive to everyone previously convicted of a sex offense and then convicted of any felony on or after July 1, 2011, violates federal and state constitutional prohibitions against *Ex Post Facto* laws because the current version of Illinois' sex offender registration and notification scheme has a punitive effect that overcomes the legislature's intent to create a civil regulatory scheme.

Jerome Bingham was convicted of attempt criminal sexual assault in 1983, but he was not required to register as a sex offender until he was convicted of a 2014 misdemeanor theft that was elevated to felony theft because of a 2000 retail theft conviction. The 2014 theft triggered the 2011 retroactivity amendment to Illinois' Sex Offender Registration Act ("SORA"). 730 ILCS 150/3(c)(2.1) (West 2012). As a result of SORA's 2011 retroactivity provision, Bingham is now classified for the rest of his life as a sexual predator subject to a statutory scheme that requires in-person registration of a tremendous amount of information, banishes him and others in his situation from public parks, and publishes each affected person's name, photograph, and personal information on the Internet above the bright red words "Sexual Predator."

The appellate court has recognized that Illinois' current registration and notification scheme bears little resemblance to and is far more burdensome than the laws previously upheld by either this Court or the United States Supreme Court.⁴ *See People v. Parker*, 2016 IL App (1st) 141597, ¶63 ("We agree that the current statutory scheme goes far beyond

⁴ For this Court's convenience, the Appendix includes charts comparing the current version of SORA to the 1998 version that this Court affirmed in *People v. Malchow*, 193 Ill. 2d 413 (2000), and to the Alaska SORA the United States Supreme Court affirmed in *Smith v. Doe*, 538 U.S. 84 (2003). (A-81)

the basic registration scheme first enacted in 1987.”); *People v. Jackson*, 2017 IL App (3d) 150154, ¶30 (“[T]he growing burdens included in the SORA statutory scheme severely impede a released offender’s ability to reintegrate into society after serving his or her sentence.”). In fact, the effects of the current scheme have become so punitive that they outweigh the legislature’s stated intent to create a civil regulatory scheme. This Court should therefore hold that the 2011 retroactivity provision violates federal and state prohibitions against *ex post facto* laws and does not apply to Bingham and others in his situation.

A. Background

Overview of National Offender Registration and Notification Laws

The first offender registry laws in the United States were passed in localities and some states during the Great Depression in response to fears about organized crime. Elizabeth Reiner Platt, *Gangsters to Greyhounds: The Past, Present, and Future of Offender Registration*, 37 N.Y.U. Rev. L. & Soc. Change 727, 729 (2013) (cited as “Platt”); Wayne A. Logan, *Megan’s Laws as a Case Study in Political Stasis*, 61 Syracuse L. Rev. 371, 372 (2011) (cited as “Logan”). A second wave of registries, including an Illinois law that targeted narcotics offenders, appeared in the 1950s and 1960s, followed by a third wave in the late 1980s. Platt at 733-734. The “[e]arly registries were widely criticized as ineffective and overly punitive, and many were eliminated through litigation or legislative repeals.” *Id.* at 728. However, “[d]espite the failure of early registries, offender registration made an overwhelming comeback in the 1990s.” *Id.* at 736.

Unlike earlier laws, modern registries were enacted by States rather than localities, and “typically targeted sex offenders and a cluster of crimes thought related to sexual victimization (e.g., kidnaping).” Logan at 373. The 1990s also marked the start of a new legislative tactic in which proposed bills were marketed by “use of a victim’s first name to convey the implicit and urgent need to pass the laws.” Catherine Carpenter, *Legislative Epidemics: A Cautionary Tale of Criminal Laws that have Swept the Country*, 58 Buff. L. Rev. 1, 23 (2010). “Putting victims’ faces on initiatives humanized and rendered more understandable the posited urgent need for policy change.” Logan at 391 (2011). Thus “[s]eparate incidents involving three young children—Adam, Jacob, and Megan—each of whom was abducted and murdered, coalesced in a national conversation on crimes against children” that “transformed into political action and resulted in a myriad of legislation including the passage of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.” Catherine L. Carpenter & Amy E. Beverlin, *The Evolution of Unconstitutionality in Sex Offender Registration Laws*, 63 HASTINGS L.J. 1071, 1077 (May 2012) (cited as “Carpenter II”).

In 1996, Congress amended the Jacob Wetterling Act by adding community notification provisions for dissemination of registration information to the community. Carpenter II, 1077, citing Pub. L. No. 104-145, §2, 110 Stat. 1345 (1996) (codified as amended at 42 U.S.C. §14071 (2010)). The law also required states to adopt its provisions to retain full federal funding for state criminal justice programs. Logan at 377. A decade later, in 2006, Congress passed the Adam Walsh Child Protection and Safety

Act and the Sex Offender Registration and Notification Act (“SORNA”). Carpenter II at 1075-1078. On February 28, 2007, the attorney general issued an interim regulation making SORNA, which “heightened requirements across the board,” applicable “to all sex offenders, including sex offenders convicted of the offense for which registration is required prior to the enactment of that Act.” 72 Fed.Reg. 8897 (codified at 28 C.F.R. § 72.3); Logan at 380.

SORNA was intended to unify the “patchwork” of federal and state registration systems into a single system by setting forth comprehensive registration-system standards, making federal funding contingent on States bringing their systems into compliance with those standards, requiring both state and federal sex offenders to register and maintain current information with relevant jurisdictions, and creating federal criminal sanctions for those who violate registration requirements. *Reynolds v. United States*, 565 U.S. 432, 435 (2012). States have responded by “quickly and often unanimously” adopting registration and notification laws, which “have been regularly revisited and expanded.” Logan at 384. “Experience in Illinois is a case in point.” *Id.*

Illinois’ Sex Offender Registration and Notification Scheme

Illinois’ first sex offender registry, the Habitual Child Sex Offender Registration Act (“HCSORA”), was enacted in 1986 “in response to concern over the proliferation of sex offenses against children.” Ill. Rev. Stat. 1987, ch. 38, ¶¶221-230; *People v. Adams*, 144 Ill. 2d 381, 386 (1991). HCSORA applied to people who were convicted, after July 1, 1986, for a second or subsequent time of four specified sex offenses against someone under the

age of 18. Ill. Rev. Stat. 1987, ch. 38, ¶222. Eligible sex offenders were required to register with the chief of police or sheriff within 30 days of entering any county where they resided or were temporarily domiciled. *Id.* at ¶223. Registration consisted of a written statement “giving such information as may be required by the Department of State Police which may include the fingerprints and photograph of such person[,]” and was required for a 10-year period after conviction or release from prison, and *Id.* at ¶¶225, 227-228. Failure to register was punishable as a Class A misdemeanor. *Id.* at ¶230. The proffered information was not open to inspection by the public; unauthorized release of registration information was punishable as a Class B misdemeanor. *Id.* at ¶229.

Approximately ten years later, the legislature amended and renamed HCSORA as the Child Sex Offender Registration Act (“CSORA”). 730 ILCS 150/1 *et seq.* (West 1994). In addition to those subject to HCSORA, CSORA added child pornography to the list of specified offenses and expanded the registration requirement to people who, after January 1, 1993, were convicted of a first sex offense against someone under the age of 18. 730 ILCS 150/2-3 (West 1994). Then, in 1996, CSORA became the Sex Offender Registration Act (“SORA”). 730 ILCS 150/1 *et seq.* (West 1996).

Unlike Illinois’ previous sex offender registry laws, which applied only to child sex offenders, SORA applied to all sex offenders. 730 ILCS 150/2 (West 1996). Other significant changes included increasing the number of eligible offenses from five to 19; requiring in-person instead of written registration; increasing the penalty for violations to a Class 4 felony and mandatory imprisonment; and subjecting registrants to the newly enacted

Child Sex Offender and Murderer Community Notification Law (“CSOCNL”). 730 ILSC 150/2, 3, 9, 10 (West 1998); 730 ILCS 152/101 *et seq* (West 1998).

Prior to enactment of CSOCNL, all registration records were held in confidence by law enforcement “on pain of criminal sanctions.” *Adams*, 144 Ill. 2d at 390. Under CSOCNL, however, registration information was put into a database, made open for inspection to the public, and the names, addresses, dates of birth, and offenses of registered child sex offenders were given to school boards, child care facilities and “anyone likely to encounter a sex offender.” *People v. Malchow*, 193 Ill. 2d 413, 420 (2000); 730 ILCS 152/115, 120, 125 (West 1998). Two years later the legislature directed the State Police to publish “all information [for persons registered as sex offenders, not just child sex offenders], including photographs if available” on the Internet. 730 ILCS 152/120 (West 2000).

Over the next decade, the legislature continued to expand the scheme in various ways. In 2006, CSOCNL was renamed as the Sex Offender Community Notification Law. Public Act 94-945 (effective June 27, 2006). The current scheme, which applies to approximately 36 different offenses, including “public indecency,” consists of various statutes governing registration and notification requirements; residency, employment, and presence restrictions; and various “other restrictions” such as annual driver’s license renewal and a prohibition on name changes. 730 ILCS 150/2(B) (West 2017); *People v. Avila-Briones*, 2015 IL App (1st) 132221, ¶24. Because of the scheme’s length and complexity, appellate counsel has prepared charts to summarize and consolidate some of the most relevant provisions. (A-81) But the following three provisions are of particular significance.

First, a 2007 amendment requires sex offenders to disclose “all e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities that the sex offender uses or plans to use, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information....” 730 ILCS 150/3(a) (West 2008). Second, in 2011, the legislature created a new criminal offense that restricts sexual predators and child sex offenders from being in or near public parks. 720 ILCS 5/11-9.4-1 (West 2012) (effective January 1, 2011). Third, also in 2011, the legislature amended SORA by adding a retroactivity clause under which everyone who has ever been convicted of an eligible sex offense, including Jerome Bingham, is automatically subject to the current version of SORA and the Notification Law if they are convicted of any felony on or after July 1, 2011. 730 ILCS 150/3(c)(2.1) (West 2012) (effective July 1, 2011).

Ex Post Facto law and the Intent-Effects Test

The *Ex Post Facto* Clauses of the U.S. and Illinois Constitutions are equally succinct: “No...Ex Post Facto Law shall be passed.” U.S. CONST. ART. I, §9, cl. 3, and §10, cl. 1; and “No Ex Post Facto law...shall be passed.” Ill. CONST. ART. I, §16. “The central concern in incorporating ex post facto clauses in both federal and state constitutions was to ‘assure that federal and state legislatures were restrained from enacting arbitrary or vindictive legislation’ following the American Revolution.” *Commonwealth v. Muniz*, 164 A.3d 1189, 1195 (Penn. 2017), quoting *Miller v. Florida*, 482 U.S. 423, 429 (1987). The federal clauses also reflect the framers’ commitment to

eradicating retrospective legislation that targeted politically vulnerable groups or individuals who ran afoul of the majority will. *See, e.g.,* James Wilson, *Considerations on the Bank of North America 1785*, in 1 COLLECTED WORKS OF JAMES WILSON, at 60, 71 (Mark David Hall eds. 2007).

In *Fletcher v. Peck*, Chief Justice Marshall opined that the federal *Ex Post Facto* Clauses were meant to bar legislatures from enacting retroactive legislation when they were caught up in the “feelings of the moment” and subject to “sudden and strong passions” toward a particular population. 10 U.S. 87, 137-138 (1810). They thus provide a “constitutional bulwark” against instances of impassioned legislative overreach. THE FEDERALIST NO. 44, at 287 (James Madison) (Isaac Kramnick ed. 1987).

Given these concerns, the United States Supreme Court has determined that the federal *Ex Post Facto* Clauses serve several intertwined purposes: protecting socially disfavored groups from vindictive legislation, preserving the separation of powers (wherein the legislature defines the law prospectively while the judiciary subsequently applies the law to conduct after it has occurred), and protecting the core individual right to notice of criminal prohibitions and punishments. *Weaver v. Graham*, 450 U.S. 24, 28-29 (1981). Relying on these foundational principles, the Sixth Circuit recently held that “the fact that sex offenders are so widely feared and disdained by the general public [therefore] implicates the core counter-majoritarian principle embodied in the [Federal] *Ex Post Facto* Clause.” *Doe v. Snyder*, 834 F. 3d 696, 705-706 (6th Cir. 2016) (*certiorari* denied No. 16-768, 2017 WL 4339925 (Oct. 2, 2017)).

A law will be found to violate the prohibition against *ex post facto* laws if it is retroactive and disadvantageous to a defendant. *People ex rel. Birkett v. Konetski*, 233 Ill. 2d 185, 208-209 (2009). “[T]he constitutional prohibition on *ex post facto* laws applies only to penal statutes which disadvantage the offender affected by them.” *Collins v. Youngblood*, 497 U.S. 37, 41 (1990). A law is disadvantageous to a defendant if it criminalizes an act innocent when performed, increases the punishment for an offense previously committed, or alters the rules of evidence making a conviction easier. *Konetski*, 233 Ill. 2d at 208-209.

To determine if legislation is civil or criminal, most courts, including this one, use the intent-effects test. *See Malchow*, 193 Ill. 2d at 419-420; *Smith v. Doe*, 538 U.S. 84, 92-106 (2003); *Carpenter II* at 1101. The first step of the inquiry is to determine whether the legislature intended the law as a punishment or a civil remedy. *Carpenter II*, at 1101. If the law is intended as punishment, that ends the inquiry, because “[a] conclusion that the legislature intended to punish would satisfy an *ex post facto* challenge without further inquiry into its effects[.]” *Smith*, 538 U.S. at 92-93. If the law is intended as a civil remedy, courts proceed to the second step to determine whether the law had a punitive effect despite its nonpunitive intent. *Malchow*, 193 Ill. 2d at 419.

To decide if the challenged legislation has a punitive effect, courts analyze the following seven factors:

- (1) “Whether the sanction involves an affirmative disability or restraint”;
- (2) “whether it has historically been regarded as a punishment”;

- (3) “whether its operation will promote the traditional aims of punishment—retribution and deterrence”;
- (4) “whether an alternative purpose to which it may rationally be connected is assignable for it”;
- (5) “whether it appears excessive in relation to the alternative purpose assigned;”
- (6) “whether the behavior to which [the sanction] applies is already a crime”; and
- (7) “whether it comes into play only on a finding of scienter.”

Kennedy v. Mendoza-Martinez, 372 U.S. 144, 168-69 (1963); *Malchow*, 193 Ill. 2d at 421.

Seminal decisions on first generation registration & notification schemes

This Court has not analyzed the current version of Illinois’ registration and notification scheme in the context of an *ex post facto* challenge until now. However, this Court has rejected *ex post facto* challenges to earlier versions of the statutory scheme, in one instance relying on a decision from the United States Supreme Court. The three primary decisions from this Court and the United States’ Supreme Court’s decision on which this Court relied are summarized below as context for Bingham’s *ex post facto* challenge.

- *People v. Adams*, 144 Ill. 2d 381 (1991).

In *Adams*, the defendant argued that HCSORA (the first incarnation of what is now known as SORA) constituted cruel and unusual punishment in violation of the Eighth Amendment and article I, section 11, of the Illinois Constitution. 144 Ill. 2d at 385-386. In rejecting the challenge, this Court first noted that HCSORA was intended to protect children through aiding law enforcement by ensuring that “the habitual offender’s address is readily

available to law enforcement agencies, which may then question and, if necessary, detain him under appropriate circumstances.” *Id.* at 387.

Since it held that HCSORA’s intent was “clearly nonpenal,” this Court determined that the intent-effects test applied only “when conclusive evidence of legislative intent is unavailable,” and instead adopted the analysis used in *Trop v. Dulles*, 356 U.S. 86 (1958). *Adams*, 144 Ill. 2d at 387-390. This Court then held that HCSORA was not punishment because the statute did not impose a severe disability on registrants where “the relatively simply act of complying ... is an innocuous duty compared to the potential alternative of spending an extended period of years in prison.” *Id.* at 387-388. Moreover, even if the statute did qualify as punishment, it was not cruel and unusual because (a) the registration information was already available in the public record, and (b) although distribution to law enforcement made the information more readily available, no stigma was created because law enforcement was prohibited from disseminating the information. *Id.* at 389-390.

- *People v. Malchow*, 193 Ill. 2d 413 (2000).

In *Malchow*, the defendant argued in relevant part that the 1998 versions of SORA and CSOCNL violated federal and state prohibitions against *ex post facto* laws. 193 Ill. 2d at 418-424. In rejecting the defendant’s challenge, this Court first relied on *Adams* for the proposition “that requiring sex offenders to register is not punishment.” *Malchow*, 193 Ill. 2d at 419, citing *Adams*, 144 Ill. 2d at 386-390. Applying the intent-effects test it rejected in *Adams*, this Court then considered whether CSOCNL equated with punishment. *Malchow*, 193 Ill. 2d at 419-424.

First, this Court held that CSOCNL placed no affirmative disability or restraint on sex offenders because it did not restrict their movements or activities “in any way.” *Id.* at 421. This Court also held that CSOCNL did not lead to public shaming because information “[wa]s not disseminated to the community as a whole” and because defendant’s argument “consist[ed] of speculation about the collateral consequences of community notification, which [wa]s irrelevant to the question of whether [CSOCNL] place[d] an *affirmative* disability on sex offenders.” *Id.* at 422 (emphasis in original). This factor did not show a punitive intent. *Id.* at 421.

Second, this Court held that CSOCNL did “not provide for ‘stigmatization and banishment[.]’ but, rather, “for a limited dissemination of matters of public record to school boards, child care facilities, and those likely to encounter sex offenders.” *Id.* The statute’s effect thus “clearly [wa]s not analogous to stigmatization penalties such as branding, stockading, pillaring, or banishment.” *Id.* This Court noted that “[d]issemination of such information has never been regarded as punishment when done in furtherance of a legitimate governmental interest.” *Id.*, citing *E.B. v. Verniero*, 119 F. 3d 1077, 1099-1100 (3d Cir. 1997). This factor also failed to indicate a punitive intent. *Malchow*, 193 Ill. 2d at 422.

Third, this Court held that CSOCNL did not have a *scienter* requirement, and thus there was no punitive intent. *Id.*

Fourth, this Court held that “the limited release of information to those likely to encounter sex offenders could hardly be characterized as “retribution.” *Id.* at 423. While acknowledging the possibility that CSOCNL could have a deterrent effect, this Court also held that “it is unlikely that

those not already deterred from committing sex offenses by the possibility of a lengthy prison term will be deterred by the additional possibility of community notification.” *Id.* Moreover, this Court noted that “even an obvious deterrent purpose does not necessarily make a law punitive.” *Id.*, citing *Department of Revenue v. Kurth Ranch*, 511 U.S. 767, 780 (1994). This factor, too, therefore weighed against a punitive intent. *Id.*

Fifth, this Court held that the next factor weighed in favor of finding a punitive intent because CSOCNL applied to behavior that was already criminal where “[t]he appropriate people [we]re notified only of those people who ha[d] committed criminal actions.” *Id.* Sixth, this Court held that CSOCNL’s “purpose [wa]s protection of the public rather than punishment.” *Id.* This factor weighed against a punitive intent. Finally, this Court considered whether CSOCNL was “excessive in relation to the goal of protecting the public from sex offenders.” *Id.* This Court noted that the law provided for “a limited distribution” of registration information that “applie[d] only to those people required to register as sex offenders,” most of whom were only required to register for a 10-year period. *Id.* at 423-424. This Court held that these measures were not excessive and that this factor therefore also weighed against a punitive intent. *Id.* at 424.

After considering all seven factors, this Court concluded that the defendant failed to meet his burden to show that CSOCNL had a punitive effect sufficient to outweigh the legislature’s intent, and that the statute’s requirements therefore were not punitive. *Id.* This Court thus rejected the *ex post facto* challenge. *Id.*

- *Smith v. Doe*, 538 U.S. 84 (2003)

In *Smith*, the United States Supreme Court considered whether Alaska's Sex Offender Registration Act ("ASORA"), a state "Megan's Law" that was enacted pursuant to the federal Jacob Wetterling Act, amounted to a retroactive punishment prohibited by the federal *Ex Post Facto* Clause. 538 U.S. at 89, 92. ASORA, which Alaska passed in 1994, contained a registration requirement and a notification system that required sex offenders to provide various information to law enforcement, some of which was kept confidential; Alaska published most of the nonconfidential information on the Internet. *Smith*, 538 U.S. at 89-91.

Applying the intent-effects test, the Court first noted that the challenging party is required to demonstrate a punitive effect by the "clearest proof" because, ordinarily, the Court defers to the legislature's stated intent. *Smith*, 538 U.S. at 92. Although there was some evidence to the contrary, the Court held that the statute's purpose of protecting the public was meant "to create a civil, nonpunitive regime." *Id.* at 93-96. The Court then considered the *Mendoza-Martinez* factors, noting that they "are 'neither exhaustive nor dispositive,' ... but are 'useful guideposts.'" *Id.* at 97 (citations omitted)

First, the Court determined that registries were not like early forms of punishment such as shaming, humiliation, and banishment, because those measures "involved more than the dissemination of information" where "[t]hey either held the person up for face-to-face shaming or expelled him from the community." *Smith*, 538 U.S. at 97-99. The fact that Alaska chose to post information on the Internet did not change the Court's decision because the Court characterized the "attendant humiliation" that

accompanies widespread public access to registry information required to inform the public for its own safety as “but a collateral consequence of a valid regulation.” *Id.* at 99. Continuing, the Court noted that an Internet search was “more analogous to a visit to an official archive of criminal records than it [wa]s to a scheme forcing an offender to appear in public with some visible badge of past criminality.” *Id.*

Second, the Court held that registries did not impose an affirmative disability or restraint because, while the argument that the scheme is parallel to probation or supervised release “has some force,” unlike modern probation or parole, registrants remain “free to move where they wish[ed] and to live and work as other citizens, with no supervision.” *Id.* at 100-101. The Court acknowledged that public availability of registration information “may have a lasting and painful impact on the convicted sex offender,” but said that “these consequences flow[ed] not from ASORA’s registration and dissemination provisions, but from the fact of conviction, already a matter of public record.” *Id.* at 101. The Court also relied on the fact that ASORA does not require sex offenders to update their registration in person. *Id.*

Third, the Court held that ASORA did not promote the traditional aims of punishment because, although it might have some deterrent effect, “[a]ny number of governmental programs might deter crime without imposing punishment.” *Id.* at 102. Fourth, the Court noted that ASORA’s “rational connection to a nonpunitive purpose [wa]s a ‘[m]ost significant’ factor in [its] determination that the statute’s effects [we]re not punitive.” *Id.* The Court then held that ASORA had a rational, albeit imperfectly tailored, connection to the nonpunitive purpose of promoting public safety, “which

[wa]s advanced by alerting the public to the risk of sex offenders in their communit[y].” *Id.* at 103. Finally, the Court held that ASORA was not excessive in relation to its regulatory purpose because the duration of the reporting requirements and means of notification were reasonable given that “[t]he risk of recidivism posed by sex offenders [wa]s ‘frightening and high.’” *Id.* at 103-105, quoting *McKune v. Lile*, 536 U.S. 24, 34 (2002).

After considering these as well as the two remaining *Mendoza-Martinez* factors, to which it assigned “little weight,” the Court held that the respondents could not show, “much less by the clearest proof, that the effects of the law negate[d] Alaska’s intention to establish a civil regulatory scheme.” *Id.* at 105. Thus, ASORA was not punitive, and retroactive application did not violate the *Ex Post Facto* Clause. *Id.* at 105-106.

- *People v. Cornelius*, 213 Ill. 2d 178 (2004).

In *Cornelius*, the defendant argued in relevant part that CSOCNL’s Internet dissemination provision violated the state and federal *Ex Post Facto* Clauses in a manner that was not foreclosed by *Malchow* because “worldwide dissemination” of sex offender registration information rendered the statute punitive. *Cornelius*, 213 Ill. 2d at 206. This Court first noted that Illinois’ registration and notification provisions were similar to those of the Alaska scheme the United States Supreme Court upheld in *Smith*. *Cornelius*, 213 Ill. 2d at 208. Without conducting an independent analysis, this Court then held that relief was foreclosed by *Smith*, which the defendant did not cite. *Cornelius*, 213 Ill. 2d at 207-209

B. Illinois' current registration and notification scheme constitutes punishment under the federal and state *Ex Post Facto* Clauses

As set forth above and as Bingham acknowledges, both this Court and the United States Supreme Court have decided that earlier versions of sex offender registration and community notification statutes were not punishment, and therefore the statutes did not violate state and federal prohibitions against *ex post facto* laws. *See Adams*, 144 Ill. 2d at 387-390; *Malchow*, 193 Ill.2d at 420-424; *Smith*, 538 U.S. at 93; *Cornelius*, 213 Ill. 2d at 207-209. The appellate court relied on this precedent in rejecting Bingham's *ex post facto* challenge. *People v. Bingham*, 2017 IL App (1st) 143150, ¶¶27-30.

The appellate court was wrong because, while earlier decisions provide a useful framework for analysis, they do not control the outcome given that neither this Court nor the United States Supreme Court has considered a scheme as expansive and burdensome as the one to which Bingham is now subject. *See Carpenter II* at 1074 (“Despite significant changes to registration schemes over the past several years, courts and legislative bodies continue to rely on two Supreme Court opinions from the 2003 term to define the parameters of constitutionality in sex offender registration laws.”). This Court should therefore reverse the appellate court, hold that the current version of Illinois' registration and notification scheme constitutes punishment, and rule that SORA's 2011 retroactivity provision violates the federal and state *Ex Post Facto* Clauses.

As set forth above, the first step of the analysis under the intent-effects test is whether the legislature intended the law as a civil remedy or a

punishment. *Malchow*, 193 Ill. 2d at 419-420. Here, during debates about Illinois' 2011 retroactivity amendment, Representative Eddy said the amendment did not constitute "additional punishment" because "that question has been adjudicated to the Supreme Court and the Supreme Court said it is not." 97th Ill. Gen. Assem., House Proceedings, March 31, 2011, at 157. Representative Eddy then said that the amendment was intended to protect "the public by identifying people that are out there and making it known to those offenders that they have to follow the same registry requirements." *Id.* at 158. Given this expressed intent, Bingham concedes that the legislature intended to create a civil remedy.

Turning to the second step of the intent-effects test, "the judicial task has been to discern narrowly tailored legislation designed to meet regulatory aims from legislation that is excessive in relation to its nonpunitive purpose." *Carpenter II* at 1103. Bingham recognizes that, historically, "only the 'clearest proof' of punishment will outweigh countervailing legislative intent." *Id.* at 1104. This requirement demonstrates "adherence to ... the presumption of constitutionality [that] cloaks all legislation." *Id.* However, "[w]ide latitude ... does not translate to unchecked legislative freedom. *Id.*; see also *Packingham v. North Carolina*, 582 U.S. ___, 137 S. Ct. 1730, 1736 (2017) ('the assertion of a valid governmental interest 'cannot, in every context, be insulated from all constitutional protection.'). Although previous incarnations survived scrutiny, the following analysis demonstrates that Illinois' current registration and notification scheme bears little resemblance to and is far more burdensome than the laws previously upheld by either this Court or the United States Supreme Court. See *Does v. Snyder*, 834

F. 3d 696, 697 (6th Cir. 2016) (*certiorari* denied No. 16-768, 2017 WL 4339925 (Oct. 2, 2017)) (“what began in 1994 as a non-public registry maintained solely for law enforcement use, [citation omitted], has grown into a byzantine code governing in minute detail the lives of [Michigan]’s sex offenders.”). Instead, its effects are punitive.

Illinois’ current scheme imposes significant affirmative disabilities and restraints that have grown more severe over time.

The registration and notification scheme to which Bingham is subject as a result of the 2011 retroactivity amendment is much more onerous than the statutes this Court and the United States Supreme Court approved in *Adams*, *Malchow*, *Smith*, and *Cornelius*. For example, HCSORA, which this Court considered in *Adams*, applied only to people who had been convicted two or more times of four specified sex offenses against children. Ill. Rev. Stat. 1987, ch. 38, ¶¶222. Registration information consisted of a written statement, fingerprints, and a photograph. *Id.* at ¶228. Dissemination of the information to anyone other than the Department of State Police was prohibited and punishable as a Class B misdemeanor. *Id.* at ¶229. Registration was required for the ten-year period following conviction or release from incarceration. *Id.* at ¶227. Failure to register was punishable as a Class A misdemeanor. *Id.* at ¶230.

The version of SORA that this Court affirmed in *Malchow* had been expanded since HCSORA to cover all sex offenders, not just child sex offenders, and required in-person rather than written registration. 730 ILCS 150/2, 3, 8 (West 1998). The 1998 SORA also eliminated HCSORA’s privacy provisions, directed online publication of registration information,

increased the penalty for violations to a Class 4 felony with mandatory imprisonment, and required registrants to pay a total of \$55 in registration fees, divided as an initial fee of \$10 plus \$5 annual renewal fees for the next nine years. 730 ILCS 150/3(c)(6), 9, 10 (West 1998); 730 ILCS 152/101 *et seq* (West 1998).

In contrast to earlier incarnations, Illinois' current scheme requires in-person registration at least once a year and up to four times a year at the request of law enforcement or whenever the registrant changes his or her address, employment, phone number, school, e-mail address, instant messaging identity, any other Internet communication identity, and any blog or Internet site the registrant maintains or to which he or she has uploaded content, details about which the registrant is required to disclose. 730 ILCS 150/3(a), (c)(5), (c)(6), 6 (West 2017). For many people, including Bingham, the duration of registration has increased from ten years to life. 730 ILCS 150/7 (West 2017). The cost of registration has increased to \$100 per year. 730 ILCS 150/3(c)(6) (West 2017). And registrants must disclose all of the Uniform Resource Locators ("URLs") they have registered or used; any extension of the time period for registering under SORA; a copy of the terms and conditions of parole or release; license plate numbers for every vehicle registered to their name; the registrant and the victim's respective ages at the time of the sex offense; and any distinguishing marks on the registrant's body. *Id.* As a court recently held, disclosure and registration of e-mail addresses and other Internet identifiers is a "severe restriction" where it "furthers the ability of state and local authorities to monitor private aspects of a registered sex offender's life and, consequently, chills his or

her ability to communicate freely.” *Millard v. Rankin*, Case No. 1:13-cv-02406-RPM, 2017 WL 3767796, *13 (USDC Colorado, Aug. 31, 2017).

Illinois’ current statute also requires registrants to appear, in person, within three days of any change in residence and/or new place of employment, telephone number, school, e-mail address, instant messaging identity, Internet communications identity, blog, or other Internet sites that the sex offender maintains or has uploaded content or posted on. 730 ILCS 150/6 (West 2017). This is a dramatic shift from the 1998 statute this Court affirmed in *Malchow*, under which registrants had 10 days to notify law enforcement of any changes in residence, which they were able to submit by providing written notification of the move. 730 ILCS 150/6 (West 1998); A-81. The statute at issue in *Smith* also permitted written notification of address changes. AK ST §11.63.010(c) (West 2000); A-93. In-person registration thus differentiates Illinois’ current scheme from the one the United States Supreme Court upheld in *Smith*, which did not require “updates to be made in person.” 538 U.S. at 101; *see also Muniz*, 163 A. 3d at 1210 (holding the in-person distinction from *Smith* to be “important”); *Doe v. State*, 111 A. 3d 1077, 1095 (N.H. 2015) (burden imposed by in-person registration becomes affirmative restraint or disability when there is no removal from registry and thus offender is subject to requirements for life).

As another example of the way in which Illinois’ current scheme has changed from earlier versions, registrants who plan to be temporarily absent from their residences for more than three days are now required to inform law enforcement in both the jurisdiction of residence and the travel jurisdiction, and submit a travel itinerary. 730 ILCS 150/3(a), 6 (West 2017);

A-81. As this Court recently held, such absences include hospitalizations. *People v. Pearse*, 2017 IL 121072, ¶42. And any person who lacks a fixed address must register with law enforcement on a weekly basis. 730 ILCS 150/6 (West 2017). Bingham recognizes that this Court found no fault with earlier incarnations. But a different result is called for here because, as the Sixth Circuit recently observed about similar requirements in Michigan, “[t]hese are direct restraints on personal conduct” that are “greater than those imposed by the Alaska statute [at issue in *Smith*] by an order of magnitude.” *Snyder*, 834 F. 3d at 703. Moreover, as the Maine Supreme Court said, “it belies common sense to suggest that a newly imposed lifetime obligation to report to a police station every ninety days to verify one’s identification, residence, and school, and to submit to fingerprinting and provide a current photograph, is not a substantial disability or restraint on the free exercise of individual liberty.” *State v. Letalien*, 985 A.2d 4, 24-25 (Maine 2009). Common sense applies equally when analyzing the real-world consequences of Illinois’ current scheme.

In *Malchow* this Court held that CSOCNL did not create an affirmative disability or restraint on sex offenders because the statute did not restrict their movements or activities “in any way.” 193 Ill. 2d at 421. Under Illinois’ current scheme, however, Bingham and others like him are subject to criminal prosecution if they stand or “sit[] idly by,” either on foot or in a vehicle, within 500 feet of any park, forest preserve, bikeway, trail, or conservation area under Illinois’ jurisdiction. 720 ILCS 5/11-9.4-1 (West 2017); *but see People v. Pepitone*, 2017 IL App (3d) 140627, ¶ 24 (appeal allowed in *People v. Pepitone*, No. 122034, 2017 WL 2297892 (Ill. May 24, 2017)) (park

restriction set forth in “section 11-9.4-1(b) is facially unconstitutional because it is not reasonably related to its goal of protecting the public, especially children, from individuals fitting the definition of a child sex offender or a sexual predator”).

As the United States Supreme Court recently reiterated in the context of a First Amendment challenge to part of North Carolina’s sex offender registration and notification scheme, parks are “essential venues for public gatherings to celebrate some views, to protest others, or simply to learn and inquire.” *Packingham*, 137 S. Ct. at 1735. Yet, because of their status as sexual predators, Bingham and others in his situation are precluded from entering these areas. That ban curtails their exercise of First Amendment rights. This case is thus distinguishable from both this Court’s decision in *Adams* and the United States Supreme Court’s decision in *Smith* because the statutory scheme at issue here directly restricts movements and activities.

Finally, Illinois’ current registration and notification scheme “provides for wide dissemination of registration information to the public.” *Konetski*, 233 Ill. 2d at 203. Much of that information, including, in this case, Bingham’s name, date of birth, height, weight, gender, race, address, and photograph, are posted on the Internet in a searchable database above the label “Sexual Predator,” which is underlined, bolded, and written in red.⁵ Barring judicial intervention, that will remain true for the rest of Bingham’s life.

⁵ See note 1.

Bingham recognizes that both this Court and the United States Supreme Court have previously held that Internet dissemination does not render registration and notification schemes punitive, because, “in contrast to traditional ‘shaming’ punishments which subjected individuals to public ridicule, an offender’s stigma under the challenged statute results from dissemination of truthful information about his criminal record, most of which is already open to the public.” *Cornelius*, 213 Ill. 2d at 209, citing *Smith*, 538 U.S. at 98. However, as the Pennsylvania Supreme Court recently stated, “*Smith* was decided in an earlier technological environment.” *Muniz*, 164 A. 3d at 1212.

This distinction is significant because:

[t]he environment has changed significantly with the advancements in technology since the Supreme Court’s 2003 decision in *Smith*. As of the most recent report by the United States Census Bureau, approximately 75 percent of households in the United States have Internet access. Yesterday’s face-to-face shaming punishment can now be accomplished online, and an individual’s presence in cyberspace is omnipresent. The public Internet website utilized by the Pennsylvania State Police broadcasts worldwide, for an extended period of time, the personal identification information of individuals who have served their “sentences.” This exposes registrants to ostracism and harassment without any mechanism to prove rehabilitation—even through the clearest proof. In my opinion, the extended registration period and the worldwide dissemination of registrants’ information authorized by SORNA now outweighs the public safety interest of the government so as to disallow a finding that it is merely regulatory.

Id., quoting *Commonwealth v. Perez*, 97 A.3d 747, 765-766 (Pa. Super. 2014) (Donohue, J., concurring).

Less than a month after *Muniz* was published, the United States Supreme Court observed that “[t]he nature of a revolution in thought can be that, in its early stages, even its participants may be unaware of it.”

Packingham, 137 S. Ct. at 1736. Then, recognizing the “Cyber Age” as “a revolution of historic proportions, the Court cautioned, “[t]he forces of the Internet are so new, so protean, and so far reaching that courts must be conscious that what they say today might be obsolete tomorrow.” *Id.* Indeed, Facebook was not invented until 2004, the same year this Court decided *Cornelius*. Yet, “as of December 2011, [Facebook] had over 845 million active users. Lindsay S. Feuer, *Who Is Poking Around Your Facebook Profile?: The Need to Reform the Stored Communications Act to Reflect A Lack of Privacy on Social Networking Websites*, 40 Hofstra L. Rev. 473, 480-481 (2011) (cited as “Feuer”). Taking this shift in technology further is the fact that of those 845 million users, as of 2012 almost half accessed the website on their mobile computers. Feuer at 481. That is an entirely different reality from the world as it existed when *Smith* and *Cornelius* were decided. Given such a seismic shift in the Internet’s reach, this Court therefore should not rely on these earlier decisions.

Instead, this Court should look to more recent decisions, in which courts have grappled with this issue through their lens of experience with our digital age. For example, in 2015, the Oklahoma Supreme Court observed that “[a]lthough some of the information, such as conviction information, may otherwise be available, the Internet has increased the unrestricted dissemination of personal information of sex offenders.” *Starkey v. Oklahoma Dept. of Corrections*, 305 P.3d 1004, 1023-1024 (Ok. 2013). Also in 2015, the New Hampshire Supreme Court concluded that while “many of the negative effects that registrants experience flow from the crime they committed, ... the registry, particularly because it is publicly available online,

increases these effects exponentially.” *Doe*, 111 A.3d at 1095. A few years earlier, the Indiana Supreme Court concluded that “through aggressive notification of their crimes, [registration and notification schemes] expose[] registrants to profound humiliation and community-wide ostracism,” and, “the practical effect of this dissemination is that it often subjects offenders to ‘vigilante justice’ which may include lost employment opportunities, housing discrimination, threats, and violence.” *Wallace v. State*, 905 N.E.2d 371, 380 (Ind. 2009).

Because the same things are true for Illinois registrants, this Court should hold that the serious, real-world effects of Internet dissemination in today’s world—where it is now recognized that the Internet is not just a glorified filing system of the sort the United States Supreme Court envisioned in *Smith* (538 U.S. at 99), but, rather (as the Court recently acknowledged in *Packingham*, 137 S. Ct. at 1735), has evolved to become the most important place for the exchange of ideas and information, including information, such as one’s status as a sex offender, that leads to public humiliation—weigh in favor of a finding of punitiveness as an affirmative disability and restraint.

The affirmative disabilities and restraints imposed by Illinois’ current scheme are analogous to historical punishments

In *Smith*, the United States Supreme Court held that ASORA did not resemble historical punishments because “punishments that lacked the corporal component, such as public shaming, humiliation, and banishment, involved more than the dissemination of information. They either held the person up before his fellow citizens for face-to-face shaming

or expelled him from the community.” 538 U.S. at 98. That may have been true in 2003, when registrants subject to SORA’s early incarnations were only required to submit a written statement, fingerprints, and a photograph. Now, however, registrants are required to provide a tremendous amount of information, including any changes to “all e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities that the sex offender uses or plans to use,” along with “all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information[.]” 730 ICLS 150/3(a) (West 2017).

The requirements imposed by Illinois’ current scheme resemble the historical punishments of parole and probation because, as a Colorado District Court recently determined and is just as true in Illinois, they “provide[] law enforcement a supervisory tool to keep an eye out for registered sex offenders using email and social media.” *Rankin*, Case No. 1:13-cv-02406-RPM at *28. Illinois’ current scheme is thus distinguishable from the Alaska scheme upheld in *Smith*, where the Court held that the registration provisions were not similar to probation because they did not call for ongoing supervision. *See Smith*, 538 U.S. at 101 (distinguishing registration requirement from probation and supervised release because “offenders subject to the Alaska statute are free to move where they wish and to live and work as other citizens, with no supervision.”).

Moreover, as the Sixth Circuit noted about Michigan’s SORA,

though [the scheme] has no direct ancestors in our history and traditions, its restrictions do meet the general, and widely accepted, definition of punishment offered by legal philosopher H.L.A. Hart: (1) it involves pain or other consequences typically considered unpleasant; (2) it follows from an offense against legal rules; (3) it applies to the actual (or supposed) offender; (4) it is intentionally administered by people other than the offender; and (5) it is imposed and administered by an authority constituted by a legal system against which the offense was committed.

Snyder, 834 F. 3d at 701, citing H.L.A. Hart, *Punishment and Responsibility* 4-5 (1968). “More specifically,” the Sixth Circuit observed, “SORA resembles, in some respects at least, the ancient punishment of banishment ... [and] traditional shaming punishments.” *Snyder*, 834 F. 3d at 701-702. The same is true here because, like the Michigan scheme the Sixth Circuit found to be punishment in *Snyder*, Illinois’ current scheme also resembles the ancient punishments of banishment and shaming.

For example, Illinois’ current scheme has the effect of banishment because child sex offenders and sexual predators are banned from public parks for the rest of their lives. 720 ILCS 5/11-9.4-1 (West 2017). That certainly qualifies as expulsion from the community given public parks’ status as “essential venues for public gatherings.” *See Packingham*, 137 S. Ct. at 1735. Moreover, publishing a person’s photograph on the Internet above the bright red label “SEXUAL PREDATOR” is the modern-day equivalent of face-to-face shaming. *See* Prana A. Topper, *The Threatening Internet: Planned Parenthood v. Acla and A Context-Based Approach to Internet Threats*, 33 COLUM. HUM. RTS. L. REV. 189, 229 (2001) (“The Internet, in essence, has the ability to make all communication face-to-face.”); Michael L. Perlin, Naomi M. Weinstein, “*Friend to the Martyr, A Friend to the Woman of Shame*”: *Thinking About the Law, Shame, and Humiliation*, 24 S. Cal.

Rev. L. & Soc. Just. 1, 21 (2014) (“Stigmatizing publicity sanctions are those that publicize criminal status, like publishing names of convicted sex offenders on the web or in a newspaper.”) (cited as “Perlin”); Carpenter II at 1114 (“Using the analytical framework from Smith, the town square has been replaced by the Internet, and each time an offender’s picture is posted online, that registrant is held up for “face-to-face” shaming, as described in Smith.”). This factor thus weighs in favor of punitiveness.

Illinois’ current scheme promotes the traditional aims of punishment.

As at least one commentator has recognized, generally speaking, sex offender registration acts “are intended to shame sex offenders into having greater respect for the law and create a powerful deterrent to reoffending.” Perlin at 43. In *Smith*, Alaska conceded that ASORA “might deter future crimes,” but the United States Supreme Court held that the law was not retributive. 538 U.S. at 102. Similarly, this Court in *Malchow* held that “the limited release of information to those likely to encounter sex offenders could hardly be characterized as ‘retribution.’” 193 Ill. 2d at 423. But, as discussed at length above, time has demonstrated that information posted on the Internet is subject to far more than the “limited release” this Court imagined during the Internet’s early days. Thus, as the Pennsylvania Supreme Court recently agreed, “the prospect of being labeled a sex offender accompanied by registration requirements and the public dissemination of an offender’s personal information has a deterrent effect.” *Muniz*, 164 A. 3d at 1215. The *Muniz* Court further held that Pennsylvania’s scheme “clearly aim[ed] at deterrence” where many of the predicate offenses were relatively minor offenses. *Id.* The same is true about

Illinois' current scheme. This factor, too, therefore weighs in favor of punitiveness.

Illinois' current scheme has become so excessive that it is no longer rationally related to its nonpunitive purpose.

The fourth and fifth *Mendoza-Martinez* factors are “whether an alternative purpose to which it may rationally be connected is assignable for it” and whether the scheme “appears excessive in relation to the alternative purpose assigned.” *Mendoza-Martinez*, 372 U.S. at 168-69. Bingham concedes that the scheme is intended “to aid law enforcement by facilitating ready access to information about sex offenders and, therefore, to protect the public.” *Pearse*, 2017 IL 121072 at ¶41. The fourth factor therefore weighs against a finding of punitiveness. The fifth factor, however, which the United States Supreme Court characterized as “[m]ost significant” (*Smith*, 538 U.S. at 102), weighs in favor of punitiveness, because Illinois’ scheme has become so excessive it is no longer rationally related to this nonpunitive purpose.

In *Smith*, the United States Supreme Court held that ASORA was not excessive in relation to the statute’s purpose largely because “[t]he risk of recidivism posed by sex offenders [wa]s ‘frightening and high.’” 538 U.S. at 103, citing *McKune v. Lile*, 536 U.S. 24, 34 (2002). To support the assertion that sex offenders have a “frightening and high” risk of recidivism in comparison to other offenders, *McKune* relied on a Department of Justice manual. *McKune*, 536 U.S. at 33 (citing U.S. Dept. of Justice, Bureau of Justice Statistics, Sex Offenses and Offenders 27 (1997); U.S. Dept. of Justice, Bureau of Justice Statistics, Recidivism of Prisoners Released in 1983, p.

6 (1997))). That manual, however, relied on a 1986 *Psychology Today* article that contained no supporting reference and was written by a counselor who ran a prison program for sex offenders. Ellman at 498. “So the evidence for *McKune*’s claim that offenders have high reoffense rates (and the effectiveness of counseling programs in reducing it) was just the unsupported assertion of someone without research expertise who made his living selling such counseling programs to prisons.” *Id.* at 499.

Indeed, the problem with *Smith*’s reliance on *McKune* becomes evident when one considers evidence-based studies, because, as it turns out, “sex offenders are actually *less* likely to recidivate than other types of criminals.” Melissa Hamilton, *Constitutional Law and the Role of Scientific Evidence: The Transformational Potential of Doe v. Snyder*, 58 B.C. L. Rev. E. Supp. 34, 38 (2017) (available at <http://lawdigitalcommons.bc.edu/bclr/vol58/iss6/5>); Ellman at 504. More specifically, a recent meta-analysis combining data from 21 different studies found that “*none* of the high-risk offenders who were offense-free after 16 years committed a sex offense thereafter.” Ellman at 502. Illinois’ expansive current scheme is certainly excessive given that it is being applied to people who pose little to no risk of reoffending and thus is doing nothing to facilitate ready access to information about sex offenders and, therefore, to protect the public. Instead, “[b]ecause registration laws and community notification statutes are overinclusive, they are rendered excessive and consequently punitive.” *Carpenter II* at 1120.

The registration and notification laws are also excessive in relation to their purpose because research indicates they “do not protect children and might even increase the danger to the community.” Perlin at 43. This

is so because “[t]he labeling and stigmatization of sex offenders can have a disintegrative impact on the offender’s rehabilitation, which may ultimately make relapse more likely.” *Id.* The laws also have a disproportionate impact on low-income offenders, causing them to be further isolated and marginalized. Perlin at 43. Indeed, even “Patty Wetterling (who played a foremost role in the genesis of modern laws) now believes “that a more circumscribed regime based on individualized risk assessments has greater promise.” Logan at 408.

Illinois’ current scheme is also excessive because it lacks any mechanism by which a registrant can petition for relief from registering based on evidence that he or she no longer presents a risk to society. Where it is intended to protect the public from sex offenders, “[t]he degree to which a prior offender has been rehabilitated and does not present a risk to the public” is central to a determination of whether the statute is excessive. *Gonzalez v. State*, 980 N.E.2d 312, 320 (Ind. 2013). Several other courts have found the absence of such mechanisms for relief dispositive under this factor. *See, e.g., Doe*, 189 P.3d at 1017; *Starkey*, 305 P.3d at 1029-30; *State v. Williams*, 952 N.E.2d 1108, 1113 (Ohio 2011); *see also Smith*, 538 U.S. at 116-17 (Ginsburg, J., dissenting) (act “notably exceeds” legitimate civil purpose by applying “to all convicted sex offenders, without regard to their future dangerousness” and “makes no provision whatever for the possibility of rehabilitation,” “[h]owever plain it may be that a former sex offender currently poses no threat of recidivism, he will remain subject to long-term monitoring and inescapable humiliation.”).

In *Smith*, the majority also concluded that ASORA was not excessive in relation to the statute's purpose by discounting the effect of Internet dissemination, stating that "the notification system is a passive one: An individual must seek access to the information." 538 U.S. at 1105. Similarly, in *Malchow*, this Court held that the CSOCNL was not excessive in relation to the statute's purpose of protecting the public because it provided for "a limited distribution" of registration information and "applie[d] only to those people required to register as sex offenders," most of whom are only required to register for a 10-year period. 193 Ill. 2d at 423-424. This reasoning is no longer valid for at least two reasons.

First, as discussed at length above, "[t]he forces of the Internet are so new, so protean, and so far reaching that courts must be conscious that what they say today might be obsolete tomorrow." *Packingham*, 137 S. Ct. at 1736. Decisions made about the significance of the Internet during its very early stages in 2003 and 2004, before the advent of social media and the transformation of the Internet that it catalyzed, therefore should not control this Court's decision about its significance in 2017, particularly given the United States Supreme Court's observation in *Packingham* about what it characterized as "the troubling fact that the law imposes severe restrictions on persons who already have served their sentence and are no longer subject to the supervision of the criminal justice system...." 137 S.Ct. at 1737.

Second, although the effects of registration are felt by a much wider group than the offender alone (Richard Tweksbury & Jill Levenson, *Stress Experiences of Family Members of Registered Sex Offender*, 27(4) Behav.

Sci. Law 611 (2009)), it is necessarily true that the registry applies only to those required to register. But that number has increased substantially since this Court's decision in *Malchow*. See Logan at 385-386 ("From April 1998 to February 2001, the number of registrants nationwide grew from 277,000 to 386,000, and from 2001 to 2007 to over 614,000.... Today, United States sex offender registries combined contain an excess of 700,000 individuals."). Illinois' registry contains approximately 30,000 names as of the writing of this brief. (Available at <http://www.isp.state.il.us/sor/offenderlist.cfm>.) Since *Malchow*, the duration of registration has also increased from a 10-year period to life for many, including Bingham. Unlike earlier incarnations, Illinois' current registration and notification scheme is excessive relative to its purpose.

Illinois' current scheme applies exclusively to criminal behavior, which overwhelmingly requires a finding of scienter for conviction.

Finally, although the United States Supreme Court assigned little weight to these last two factors in *Smith*, 538 U.S. at 105, it is worth noting that the sixth factor weighs in favor of punitiveness where the current registration and notification scheme necessarily applies to behavior that is already a crime. The seventh factor, *scienter*, is less clear. In *Malchow*, this Court held that it weighed against punitive intent because "[t]he only requirement for the notification provisions to become effective is that the offender is released into the community." 193 Ill. 2d at 423. But this Court did not consider the current version of SORA, which overwhelmingly applies to offenses that require a finding of *scienter* in order to secure conviction.

Id. at 419; 730 ILCS 150/2(B) (West 2017). These two factors therefore also weigh in favor of punitiveness.

The effects of Illinois' current registration and notification scheme have become so punitive that they outweigh the legislature's intent to create a civil regulatory scheme.

Considered altogether, the seven *Mendoza-Martinez* factors demonstrate by the “clearest proof” that, unlike the statutes upheld in *Adams*, *Malchow*, *Smith*, and *Cornelius*, the current version of Illinois’ registration and notification scheme constitutes punishment because it has a punitive effect that outweighs the legislature’s intent to create a civil regulatory scheme. First, the scheme creates affirmative disabilities and restraints that are analogous to historical punishments. Second, the scheme promotes the traditional aims of punishment. Third, Illinois’ current scheme has become so excessive that it is no longer rationally related to its nonpunitive purpose. And, finally, the current version of SORA applies exclusively to criminal behavior, which overwhelmingly requires a finding of scienter for conviction. The 2011 retroactivity provision therefore violates prohibitions against *ex post facto* laws because it increases the punishment for an offense previously committed where Bingham and others in his situation were not previously subject to the scheme. *See Konetski*, 233 Ill. 2d at 208-209.

C. The 2011 retroactivity clause violates both federal and Illinois’ *Ex Post Facto* Clauses

Because the intent-effects test shows that Illinois’ current registration and notification scheme is punitive, the 2011 retroactivity clause violates the federal *Ex Post Facto* Clauses because it punishes Bingham and others in his situation for crimes that occurred before the current version of SORA

was enacted. Bingham recognizes that this Court has traditionally interpreted Article I, Section 16 in lockstep with the U.S. Constitution's *ex post facto* clause. *Konetski*, 233 Ill.2d at 209. Thus, Bingham could end his argument here. But "state courts are free to independently construe their state constitutions to provide more protection than the federal constitution." *People v. Caballes*, 221 Ill. 2d 282, 314 (2006). Furthermore, as the Pennsylvania Supreme Court recently recognized, a decision based exclusively on federal grounds holds the potential for uncertainty and delay. *Muniz*, 164 A. 3d at 1219. Bingham therefore asks this Court to hold that Illinois' 2011 retroactivity provision also violates Illinois' *Ex Post Facto* Clause.

Illinois employs a limited lockstep approach when interpreting cognate provisions of the Illinois and U.S. Constitutions. *Caballes*, 221 Ill. 2d at 314. Where, like here, the state constitutional provision is identical to or synonymous with the federal provision, this Court generally follows federal authority unless the language of Illinois' constitution, the constitutional convention debates and committee reports, or state custom and practice indicate that the provisions of Illinois' constitution are intended to be construed differently. *Hope Clinic for Women, Ltd.*, 2013 IL 112673, ¶83. Counsel did not find debate or committee reports about Illinois' *Ex Post Facto* Clause. But Elmer Gertz, chairman of the committee responsible for studying and formulating the Illinois bills of rights and making recommendations to the delegates, explained "that the Illinois courts were the most appropriate decision-making body to ascertain the meaning of the Illinois constitution through case-by-case analysis." James K. Leven, *A Roadmap to State Judicial Independence Under the Illinois Limited*

Lockstep Doctrine Predicated On the Intent of the Framers of the 1970 Illinois Constitution and Illinois Tradition, 62 DePaul L. Rev. 63, 96 (Fall 2012) (cited as “Leven”). The framers therefore intended for this Court, not the United States Supreme Court, to decide what the Illinois constitution means in a particular factual context. Leven at 96.

Instructive here is *Doe v. State*, 189 P.3d 999 (2008), where the Alaska Supreme Court held that ASORA violated Alaska’s *Ex Post Facto* Clause despite the United States Supreme Court’s decision in *Smith*, because the Alaska constitution provided greater protection than the federal constitution. Importantly, like this Court, the Alaska Supreme Court had previously relied on federal precedent and analysis. *Doe*, 189 P. 3d at 1004-1005. But the Alaska Supreme Court held that it was not required to do so because the state retained its sovereign authority “to develop additional constitutional rights and privileges under our Alaska Constitution if we find such fundamental rights and privileges to be within the intention and spirit of our local constitutional language and to be necessary for the kind of civilized life and ordered liberty which is at the core of our constitutional heritage.” *Id.* at 1006-1007, note 51. This Court should follow suit.

As mentioned in Bingham’s due process argument, sex offenders have become so despised in Illinois “that finding new ways to regulate them has ... become a ‘rite of spring’ for legislators...” Michelle Olson, *Putting the Brakes on the Preventive State*, 5 NW J. L. & SOC. POL’Y 403, 416 (Fall 2010). Moreover, for politicians, “[l]eaving things as they are poses no electoral risks.” Logan at 400. This situation is exactly what the prohibition against *ex post facto* laws was designed to address. See *Snyder*, 834 F. 3d

at 705-706 (“the fact that sex offenders are so widely feared and disdained by the general public [therefore] implicates the core counter-majoritarian principle embodied in the [Federal] *Ex Post Facto* Clause.”). If this issue reaches it, the United States Supreme Court may agree. But it may not. It is therefore up to this Court to protect the people of Illinois, especially those, such as sex offenders, who are the most despised, from legislative excess.

D. Conclusion

Jerome Bingham was convicted of attempt criminal sexual assault in 1983. In the three decades that have since passed, he has never been convicted of another sex offense. Yet, because a minor theft conviction triggered SORA’s 2011 retroactivity provision, Bingham has now been branded as a sexual predator, and is subject to a statutory scheme that banishes him and others in his situation from public parks, requires in-person registration of a tremendous amount of information, and publishes their name, photograph, and personal information on the Internet above the bright red words “Sexual Predator.” Both this Court and the United States Supreme Court have decided that earlier versions of sex offender registration and community notification statutes were not punishment, and therefore the statutes did not violate state and federal prohibitions against *ex post facto* laws. But neither this Court nor the United States Supreme Court has considered a scheme as expansive and burdensome as the one to which Bingham is now subject. Like similar schemes across the country, Illinois’ scheme has become punitive. This Court should join a growing number of courts across the country by holding that the current version of Illinois’

registration and notification scheme constitutes punishment, and thus that SORA's 2011 retroactivity provision violates the federal and state *Ex Post Facto* Clauses.

CONCLUSION

For the foregoing reasons, Jerome Bingham, defendant-appellant, respectfully requests that this Court reverse the appellate court, hold that SORA's 2011 retroactivity provision violates due process as applied to him, and order that he be relieved of the obligation to register as a sex offender pursuant to Argument I; and reverse the appellate court, hold that the current version of Illinois' registration and notification scheme constitutes punishment, and rule that the 2011 retroactivity provision of Illinois' SORA violates the federal and state *Ex Post Facto* Clauses and thus does not apply to Bingham and others in his situation pursuant to Argument II.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I, Deborah Nall, certify that this brief conforms to the requirements of Supreme Court Rule 341(a) and (b). The length of this brief, excluding pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 13,911 words.

/s/Deborah Nall
DEBORAH NALL
Assistant Appellate Defender

No. 122008

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF	)	Appeal from the Appellate Court of
ILLINOIS,	)	Illinois, No. 1-14-3150.
)	
Plaintiff-Appellee,	)	There on appeal from the Circuit
	)	Court of Cook County, Illinois , No.
-vs-	)	14 CR 11336.
)	
JEROME BINGHAM	)	Honorable
)	Bridget Jane Hughes,
)	Judge Presiding.
Defendant-Appellant)	

NOTICE AND PROOF OF SERVICE

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On October 11, 2017, the Brief and Argument was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the defendant-appellant in an envelope deposited in a U.S. mail box in Chicago, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Brief and Argument to the Clerk of the above Court.

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*State App. - Defendant***NOTICE**

The text of this order may be changed or corrected prior to the time for filing of a Petition for Reconsideration or the disposition of the same.

Nall

2017 IL App (1st) 143150

SIXTH DIVISION
February 10, 2017

No. 1-14-3150

THE PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff-Appellee,

v.

JEROME BINGHAM,

Defendant-Appellant.

) Appeal from the
) Circuit Court of
) Cook County

) No. 14 CR 11336

) Honorable
) Bridget Jane Hughes,
) Judge Presiding.

JUSTICE ROCHFORD delivered the judgment of the court, with opinion.
Presiding Justice Hoffman and Justice Cunningham concurred
in the judgment and opinion.

OPINION

¶ 1 Following a bench trial in September 2014, the trial court convicted defendant, Jerome Bingham, of theft, which was elevated to a Class 4 felony due to a previous retail theft conviction, and sentenced him to three years' imprisonment. Defendant had a prior conviction in 1983 for attempted criminal sexual assault for which he had not been required to register as a sex offender because the conviction occurred prior to enactment of the Sex Offender Registration Act (Act) (730 ILCS 150/1 *et seq.* (West 2012)), in 1986. Under section 3(c)(2.1) of the Act (730 ILCS 150/3(c)(2.1) (West 2012)), as amended in 2011, defendant's 2014 felony theft conviction in this case required him to register as a sex offender for the 1983 attempted criminal sexual assault. On appeal, defendant contends (1) the Act is unconstitutional as applied to him; (2) the Act violates the *ex post facto* clauses of the United States and Illinois Constitutions; (3) his theft conviction was improperly elevated from a Class A misdemeanor to a Class 4 felony, and the trial court improperly imposed an enhanced three-year sentence for the Class 4 felony conviction; and (4) the trial court erroneously imposed a DNA analysis fee and failed to apply the \$5 per day credit for presentence incarceration to several charges that qualify as fines. We

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affirm defendant's conviction, three-year sentence, and the requirement that he register as a sex offender. We vacate his DNA analysis fee, credit him with \$65 as against his fines, and direct the clerk of the circuit court to modify the fines and fees order accordingly.

¶ 2

I. Defendant's Theft Conviction

Defendant was charged with theft after a surveillance camera recorded him taking several pallets from the unfenced yard of a Kmart in Norridge, Illinois at approximately 6:30 p.m. on May 3, 2014. The indictment alleged that defendant committed theft "in that he, knowingly obtained or exerted unauthorized control over property, to wit: pallets, of a value less than five hundred dollars, the property of Kmart, intending to deprive Kmart, permanently of the use or benefit of said property, and the defendant has been previously convicted of the offense [of] retail theft under case number 00125524901, in violation of Chapter 720 Act 5 section 16-1(a)(1) of the Illinois Compiled Statutes 1992 as amended."

¶ 3 The cause proceeded to a one-day trial on September 11, 2014. At trial, Ali Sahtout testified he works as a security guard at the Kmart at 4201 North Harlem Avenue in Norridge. At approximately 6:30 p.m. on May 3, 2014, Mr. Sahtout was in the Kmart security office monitoring the video cameras when he saw defendant drive his truck to the receiving area in the back of the store, where storage units and pallets belonging to Kmart are located. Defendant exited his truck, grabbed a total of six pallets (two pallets at a time), and put them on the back of his truck. Then he drove away. The pallets were valued at \$12 each. Defendant was never given permission to take the pallets.

¶ 4 Mr. Sahtout contacted the Norridge police department. About five minutes later, the police called him back and asked him to come to a location a half block from the receiving area

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of the store. Mr. Sahtout went there and saw that the officers had pulled defendant over and placed him in a squad car.

¶ 5 Mr. Sahtout identified People's exhibit No. 1 as the video depicting defendant taking the pallets and putting them in the back of his truck. Mr. Sahtout identified People's exhibits Nos. 2 through 5 as photographs truly depicting how defendant's truck appeared on May 3, 2014.

¶ 6 Officer Peter Giannakopoulos of the Norridge police department testified that at approximately 6:30 p.m. on May 3, 2014, he was patrolling the 4200 block of Harlem Avenue. He was dispatched to the Kmart store a half block away because there was a report that an African-American man in a black pickup truck with registration plate 1129940 B had taken some pallets from the rear of the property.

¶ 7 Officer Giannakopoulos arrived at the Kmart receiving area about two minutes later, and he saw a black pickup truck with registration plate 1129940 B leaving the area. Defendant was the driver. The officer curbed the truck and saw several pallets on the truck's open bed.

¶ 8 Officer Giannakopoulos asked Mr. Sahtout to come to his location to make an identification. Mr. Sahtout came and identified defendant as the person who had taken the pallets from the rear of the Kmart. Defendant was placed under arrest.

¶ 9 Following the testimony of Officer Giannakopoulos, the parties stipulated that defendant had a previous conviction for retail theft in case No. 00125524901. The State entered its exhibits into evidence, and the trial court viewed the video depicting defendant taking the pallets from the Kmart receiving area. The State then rested.

¶ 10 Defendant testified he was a retired truck driver, who now works as a metal scrapper, and that, about six months before the incident at issue, he had a conversation with a person who was driving a forklift in the back of the Kmart at 4201 North Harlem Avenue. The forklift driver told

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defendant that it would be okay for him to take broken pallets from behind the Kmart for scrapping purposes. Pursuant to this conversation with the forklift driver, defendant took several broken pallets from the Kmart receiving area on May 3 and was subsequently pulled over by the police. Defendant testified he believed he had permission from the forklift driver to take the broken pallets, and therefore he did not believe he was guilty of theft.

¶ 11 On September 11, 2014, following defendant's testimony, the trial court convicted defendant of theft. The cause proceeded to sentencing. The presentence investigation report (PSI) detailed defendant's prior criminal history, including attempted criminal sexual assault in 1983, possession of a controlled substance in 1993 and 1996, violation of an order of protection in 1999, retail theft of less than \$150 in 1999, possession of a stolen vehicle in 2000, two retail thefts in 2000, theft in 2004, and possession of a controlled substance in 2005 and 2007. At sentencing, the State presented evidence that on May 2, 2014 (the day before the theft of which he was convicted here), defendant had stolen additional pallets from the Kmart located at 4201 North Harlem Avenue.

¶ 12 The trial court sentenced defendant to three years' imprisonment on his theft conviction, which was elevated to a Class 4 felony due to his previous conviction for retail theft, plus \$699 in various fines, fees, and costs.

¶ 13

II. Defendant's Sex Offender Registration

¶ 14 The PSI indicated that defendant was convicted of attempted criminal sexual assault in 1983 and sentenced to four years' imprisonment. At the time of defendant's offense in 1983, he was not required to register as a sex offender because the Act had not yet been enacted. The Act was subsequently enacted in 1986 and amended in 2011 to provide that "[a] sex offender or sexual predator, who has never previously been required to register under this Act, has a duty to

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register if the person has been convicted of any felony offense after July 1, 2011.” 730 ILCS 150/3(c)(2.1) (West 2012). Defendant’s 2014 felony conviction for theft now requires him to register as a sex offender for his commission of attempted criminal sexual assault in 1983.

¶ 15

III. Defendant’s Appeal

¶ 16 First, defendant contends the Act is unconstitutional as applied to him. Specifically, defendant contends his history of nonviolent and nonsexual offenses (since his 1983 conviction for attempted criminal sexual assault) and the circumstances of the 2014 felony theft of six pallets from the Kmart do not indicate he is at risk of committing another sex offense. Therefore, defendant argues the Act violates his substantive due process rights by requiring him to register as a sex offender because on these facts there is no reasonable relationship between the registration requirement and the Act’s purpose of protecting the public from sex offenders.

¶ 17 A statute is presumed constitutional, and defendant, as the party challenging the statute, bears the burden of demonstrating its invalidity. *People v. Malchow*, 193 Ill. 2d 413, 418 (2000). Courts have the duty to uphold the constitutionality of a statute whenever reasonably possible, resolving any doubts in favor of its validity. *People v. Patterson*, 2014 IL 115102, ¶ 90. We review *de novo* the constitutionality of a statute. *Id.*

¶ 18 “When confronted with a claim that a statute violates the due process guarantees of the United States and Illinois Constitutions, courts first must determine the nature of the right purportedly infringed upon by the statute. [Citation.] Where the statute does not affect a fundamental constitutional right, the test for determining whether the statute complies with substantive due process is the rational basis test. [Citation.] To satisfy this test, a statute need only bear a rational relationship to the purpose the legislature sought to accomplish in enacting the statute. [Citation.] Pursuant to this test, a statute will be upheld if it bears a reasonable

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relationship to a public interest to be served, and the means adopted are a reasonable method of accomplishing the desired objective.” (Internal quotation marks omitted). *In re J.W.*, 204 Ill. 2d 50, 66-67 (2003). The rational basis test is highly deferential; if there is any conceivable set of facts showing a rational basis for the statute, it will be upheld. *People v. Johnson*, 225 Ill. 2d 573, 585 (2007).

¶ 19 The parties make no argument that the Act affects a fundamental right; accordingly, we analyze the statute using the rational basis test. See *In re J.W.*, 204 Ill. 2d at 67 (analyzing the constitutionality of the Act using the rational basis test).

¶ 20 Initially, the State argues we lack a sufficient evidentiary record to review defendant’s “as-applied” constitutional challenge, in the absence of an evidentiary hearing and findings of fact. In support, the State cites *People v. Mosley*, 2015 IL 115872, which held that a court is not capable of making an “as-applied” determination of constitutionality where there has been no evidentiary hearing and no findings of fact, and that in the absence of such an evidentiary hearing and findings of fact, the constitutional challenge must be facial. *Id.* ¶¶ 47, 49. The requirement of an evidentiary hearing and findings of fact for an “as-applied” challenge exists because unlike a facial challenge that “requires demonstrating that a statute is unconstitutional under any set of facts, an as-applied challenge requires demonstrating that the statute is unconstitutional under the particular circumstances of the challenging party.” *People v. Gray*, 2016 IL App (1st) 134012, ¶ 33. “Because as-applied challenges are dependent on the particular facts, it is paramount that the record be sufficiently developed in terms of those facts and circumstances for purposes of appellate review.” (Internal quotation marks omitted). *Id.*

¶ 21 In the present case, the particular circumstances of defendant’s as-applied, due process challenge centers around whether the Act’s requirement that he register as a sex offender for

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committing a 2014 felony theft more than 30 years after his 1983 conviction for attempted criminal sexual assault is rationally related to the Act's purpose of protecting the public from sex offenders, where his criminal background (other than the 1983 conviction) shows no other violent or sexual offenses. The record on appeal is sufficient for us to review defendant's as-applied challenge to the constitutionality of the Act, as the record contains the transcript of the bench trial at which the parties thoroughly explored the circumstances of the 2014 felony theft offense of which he ultimately was convicted, as well as the transcript of the sentencing hearing that explored his criminal history, including his 1983 attempted criminal sexual assault. The appellate record also contains the PSI, which further discussed defendant's criminal history, including his 1983 conviction for attempted criminal sexual assault. The record on appeal is sufficient to enable us to consider whether the Act, as applied to the particular facts of defendant's case, is unconstitutional. See *e.g.*, *Gray*, 2016 IL App (1st) 134012, ¶ 36 (holding that the evidentiary record established at trial was sufficient for appellate review of defendant's as-applied challenge). We proceed to address defendant's as-applied, due process argument which, as discussed, is reviewed here under the rational basis test.

¶ 22 Under the rational basis test, "our inquiry is twofold: we must determine whether there is a legitimate state interest behind the legislation, and if so, whether there is a reasonable relationship between that interest and the means the legislature has chosen to pursue it." *Johnson*, 225 Ill. 2d at 584.

¶ 23 Our supreme court has held that the purpose of the Act "is to aid law enforcement by facilitating ready access to information about sex offenders and, therefore, to protect the public" and that "[t]his is obviously a legitimate state interest." *Id.* at 585. Defendant does not dispute the legitimacy of the State's interest in protecting the public from sex offenders. Rather, defendant

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argues that, as applied to him, the Act's requirement that he register as a sex offender for committing the "minor" 2014 felony theft after having committed the attempted criminal sexual assault in 1983 bears no reasonable relationship to the Act's purpose, where his history of nonviolent and nonsexual offenses (other than the 1983 conviction) and the circumstances of the 2014 felony theft do not indicate he is at risk of committing another sex offense.

¶ 24 We disagree. Defendant's lengthy criminal history from 1983 to 2014, including attempted criminal sexual assault in 1983; possession of a controlled substance in 1993, 1996, 2005, and 2007; violation of an order of protection in 1999; retail theft in 1999 and 2000; possession of a stolen vehicle in 2000; and theft in 2004, coupled with his felony conviction for theft in this case in 2014, shows his general tendency to recidivate, *i.e.*, to return to a habit of criminal behavior. One of defendant's prior criminal behaviors was for attempted criminal sexual assault, which is currently defined as a sex offense under the Act. See 730 ILCS 150/2(B) (West 2012). Defendant's sex offense was committed more than 30 years ago, in 1983, prior to the enactment of the Act's registration requirement, but his recent felony theft conviction in this case came in 2014, after the Act's enactment. Under section 3(c)(2.1) of the Act, as amended in 2011, his 2014 felony theft conviction now requires him to register as a sex offender for committing the 1983 attempted criminal sexual assault. Even though the 2014 felony theft was nonviolent and nonsexual ("minor" according to defendant), it still exhibited (along with defendant's other crimes committed since 1983) his general tendency to return to his prior criminal behavior, and as discussed, one of those prior criminal behaviors involved a sex offense. The legislature reasonably could determine that where, as here, defendant has committed a sex offense in the past for which he was not then required to register and has shown a recent, general tendency to recidivate by committing a new felony since the amendment of the Act in 2011, he poses the

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potential threat of committing a new sex offense in the future. Such a threat is magnified in the instant case, where defendant has committed no less than 11 crimes (six felonies and five misdemeanors), in addition to the 2014 felony theft at issue here, since his attempted criminal sexual assault in 1983. The Act's requirement that defendant register as a sex offender for committing the 2014 felony theft after having committed the 1983 attempted criminal sexual assault is a reasonable method for accomplishing the desired legislative objective of protecting the public from sex offenders. Accordingly, the Act as applied to defendant satisfies the rational basis test and is constitutional, and therefore, defendant's as-applied due process challenge to the Act fails.

¶ 25 Next, defendant contends section 3(c)(2.1) of the Act violates the *ex post facto* clauses of the United States and Illinois constitutions by imposing a new and ongoing punishment (the registration requirement) for the attempted criminal sexual assault offense he committed more than 30 years ago.

¶ 26 The *ex post facto* clauses in the United States and Illinois Constitutions prohibit the retroactive application of laws inflicting greater punishment than the law in effect at the time a crime was committed. *People v. Fredericks*, 2014 IL App (1st) 122122, ¶ 54. Whether a law constitutes "punishment" or not hinges on whether the legislature intended the law to establish civil proceedings or impose punishment. *Id.* Even where the legislative intent was to enact a civil regulatory scheme instead of a punitive scheme, the law may violate the *ex post facto* clauses when the clearest proof shows it is so punitive, either in purpose or effect, as to constitute punishment. *Id.*

¶ 27 The Illinois Supreme Court "has consistently held that the Act's registration requirement is not a punishment." *People ex rel. Birkett v. Konetski*, 233 Ill. 2d 185, 207 (2009) (citing *In re*

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J.W., 204 Ill. 2d at 75; *Malchow*, 193 Ill. 2d at 424; and *People v. Adams*, 144 Ill. 2d 381, 386-90 (1991)). Defendant argues that we should disregard this precedent and look to *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 168-69 (1963), which sets forth the following seven factors to determine whether an ostensibly civil statute has a punitive effect: (1) whether the sanction involves an affirmative disability or restraint, (2) whether the sanction historically has been regarded as punishment, (3) whether the sanction applies only on a finding of *scienter*, (4) whether operation of the sanction promotes retribution and deterrence, (5) whether the behavior to which the sanction applies is already a crime, (6) whether an alternative purpose to which the sanction may rationally be connected is assignable to it, and (7) whether the sanction appears excessive in relation to the alternative purpose assigned. *Fredericks*, 2014 IL App (1st) 122122, ¶ 58 (applying *Mendoza-Martinez* factors).

¶ 28 Defendant contends that, applying the *Mendoza-Martinez* factors, we should find that the registration requirement is a punishment and that the Act therefore violates the *ex post facto* clauses by retroactively imposing the registration requirement upon him for a crime (attempted criminal sexual assault) committed more than 30 years ago. “We, however, are bound by the decisions of the Illinois Supreme Court” that have held that the registration requirement is not a punishment and, thus, that the Act does not violate the *ex post facto* clauses. *People v. Jenk*, 2016 IL App (1st) 143177, ¶ 26.

¶ 29 Further, we note that in considering an *ex post facto* challenge to the Sex Offender and Child Murderer Community Notification Law (Notification Law) (730 ILCS 152/101 *et seq.* (West 1998)), which requires the Illinois State Police to maintain a sex offender database to identify sex offenders and make information about them available to certain specified persons, the Illinois Supreme Court in *Malchow* expressly considered the *Mendoza-Martinez* factors.

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Malchow, 193 Ill. 2d at 421-424. The Illinois Supreme Court concluded that the *Mendoza-Martinez* factors did not weigh in favor of a conclusion that the Notification Law constituted punishment, and thus, the *ex post facto* claim failed. *Id.* at 424.

¶ 30 In *Fredericks*, the appellate court considered an *ex post facto* argument regarding the Act at issue here and examined the *Mendoza-Martinez* factors. The appellate court held that *Malchow's* analysis of the *Mendoza-Martinez* factors with regard to the Notification Law also applies to the Act at issue here and concluded that the sex offender registration is not punishment and, thus, that the Act does not violate the *ex post facto* clauses. *Fredericks*, 2014 IL App (1st) 122122, ¶¶ 58-61. We adhere to *Fredericks* and reject defendant's *ex post facto* claim.

¶ 31 Next, defendant contends the trial court improperly elevated his theft conviction from a Class A misdemeanor to a Class 4 felony and then improperly imposed an "enhanced" three-year sentence on him as a Class 4 felony offender, meaning the court imposed a lengthier sentence based on the higher classification of the offense. Section 16-1(b)(1) of the Criminal Code of 2012 provides that "[t]heft of property not from the person and not exceeding \$500 in value is a Class A misdemeanor." 720 ILCS 5/16-1(b)(1) (West 2012). However, defendant here was expressly charged by indictment with theft after having "been previously convicted of the offense [of] retail theft." Therefore, defendant's theft conviction was elevated to a Class 4 felony offense pursuant to section 16-1(b)(2) of the Criminal Code of 2012, which states in pertinent part, "A person who has been convicted of theft of property not from the person and not exceeding \$500 in value who has been previously convicted of any type of theft *** is guilty of a Class 4 felony." 720 ILCS 5/16-1(b)(2) (West 2012). As a Class 4 felony offender, defendant was subject to a one- to three-year term of imprisonment. See 730 ILCS 5/5-4.5-45(a) (West 2012).

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¶ 32 Defendant contends he should not have been given an enhanced three-year sentence as a Class 4 felony offender because the State failed to comply with section 111-3(c) of the Code of Criminal Procedure of 1963 (Code), which provides:

“When the State seeks an enhanced sentence because of a prior conviction, the charge shall also state the intention to seek an enhanced sentence and shall state such prior conviction so as to give notice to the defendant. However, the fact of such prior conviction and the State’s intention to seek an enhanced sentence are not elements of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial. For the purposes of this Section, ‘enhanced sentence’ means a sentence which is increased by a prior conviction from one classification of offense to another higher level classification of offense set forth in Section 5-4.5-10 of the Unified Code of Corrections (730 ILCS 5/5-4.5-10); it does not include an increase in the sentence applied within the same level of classification of offense.” 725 ILCS 5/111-3(c) (West 2012).

¶ 33 Defendant argues that the indictment failed to comply with section 111-3(c) because it did not expressly state the intention to seek the enhanced three-year sentence for a Class 4 felony and, thus, defendant contends we should reduce his theft conviction to a Class A misdemeanor and remand his case for resentencing. The State counters that defendant has failed to show any prejudice by the alleged defect in the indictment.

¶ 34 The timing of the challenge to the indictment determines whether defendant must show he was prejudiced by the defect in the charging instrument. *People v. Stephenson*, 2016 IL App (1st) 142031, ¶ 18. “If an indictment or information is challenged in a pretrial motion, it must strictly comply with the pleading requirements of section 111-3.” (Internal quotation marks

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omitted.) *Id.* However, if the defendant challenges the sufficiency of the charging instrument for the first time on appeal, he must show he was prejudiced by the defect in the indictment. *Id.*

¶ 35 Defendant here challenges the sufficiency of the indictment under section 111-3(c) for the first time on appeal and, thus, must show he was prejudiced thereby, *i.e.*, that the indictment failed to notify him that he was being charged with a Class 4 felony theft. See *People v. Jameson*, 162 Ill. 2d 282, 290, 291 (1994) (holding that “[s]ection 111-3(c) ensures that a defendant receives pretrial notice that the State is charging the defendant with a higher classification of offense because of a prior conviction,” and that “[t]he legislature enacted section 111-3(c) to ensure that a defendant received notice, before trial, of the *offense* with which he is charged” (emphasis in the original)).

¶ 36 Initially, we note that defendant makes no argument that he was not on notice before trial that he was being charged with a Class 4 felony theft. Nor could he make such an argument, as the indictment informed him that he was being charged with theft after having been previously convicted of retail theft. Only one offense level and sentencing range is allowed for a defendant charged with theft who has a prior conviction for retail theft: a Class 4 offense with a prison term of between one and three years. See 720 ILCS 5/16-1(b)(2) (West 2012); 730 ILCS 5/5-4.5-45(a) (West 2012). Accordingly, as defendant was on notice before trial that he was being charged with Class 4 felony theft subject to a potential three-year term of imprisonment, his challenge to the sufficiency of the indictment fails.

¶ 37 Next, defendant argues that the trial court erred in its assessment of certain fines and fees. Defendant forfeited review by failing to object during sentencing. *People v. Hillier*, 237 Ill. 2d 539, 544 (2010). We choose to review the issue as plain error under Illinois Supreme Court Rule 615(a).

No. 1-14-3150

¶ 38 First, defendant argues, and the State agrees, that the \$250 DNA analysis fee was improperly imposed on him by the trial court and should be vacated because defendant is currently registered in the DNA database. See *People v. Marshall*, 242 Ill. 2d 285, 303 (2011). Accordingly, we vacate the \$250 DNA analysis fee and direct the clerk of the circuit court to modify the fines and fees order accordingly.

¶ 39 Next, defendant argues the trial court improperly imposed a \$50 fine on him pursuant to section 5-1101(c) of the Counties Code (55 ILCS 5/5-1101(c) (West 2012)). Section 5-1101(c) provides for defendant to be charged \$50 after being found guilty of a felony. Defendant was convicted of a felony, and therefore we affirm the \$50 fine pursuant to section 5-1101(c).

¶ 40 Next, defendant argues, and the State agrees, that he is entitled to (1) a \$15 presentence incarceration credit to be applied to the \$15 State Police operations fine and (2) a \$50 presentence incarceration credit to be applied to the \$50 court system fine. Thus, we direct the clerk of the circuit court to modify the fines and fees order to reflect a reduction of defendant's fines by a total of \$65. See section 110-14(a) of the Code (725 ILCS 5/110-14(a) (West 2012) (providing that a defendant who is assessed a fine is allowed a credit of \$5 for each day he was in custody on a bailable offense for which he did not post bail).

¶ 41 Finally, defendant contends the \$190 fee imposed on him for the filing of a felony complaint is actually a fine subject to the \$5 per day presentence incarceration credit. The \$5 per day presentence incarceration credit applies to "fines," which are pecuniary punishments imposed as part of a criminal sentence. *People v. Tolliver*, 363 Ill. App. 3d 94, 96-97 (2006). The \$5 per day presentence incarceration credit does not apply to "fees." *Id.* at 96. A "fee" "is a charge for labor or services, and is a collateral consequence of the conviction which is not punitive, but instead, compensatory in nature." *Id.* at 97.

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¶ 42 In *Tolliver*, we held that the charge imposed on a defendant for the filing of a felony complaint is a fee, not a fine and, therefore, the \$5 per day presentence incarceration credit provided for in section 110-14(a) of the Code does not apply. *Id.* Accordingly, we affirm defendant's \$190 fee for the filing of the felony complaint.

¶ 43 For all the foregoing reasons, we affirm the judgment of the circuit court and direct the clerk of the circuit court to modify the fines and fees order pursuant to Illinois Supreme Court Rule 615(b)(1).

¶ 44 Affirmed as modified.

**TO THE APPELLATE COURT OF ILLINOIS
IN THE CIRCUIT COURT OF COOK COUNTY
CRIMINAL DIVISION**

PEOPLE OF THE STATE OF ILLINOIS)

vs.)

JEROME BINGHAM)

Case No.:

14 CR 11336

Trial Judge:

Hon. Bridget Hughes

Attorney:

Anne R. Dykes

NOTICE OF APPEAL

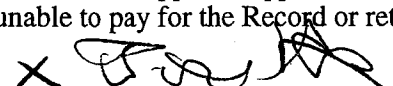
An Appeal is taken from the order or judgment described below:

APPELLANT'S NAME: JEROME BINGHAM
I.R. NUMBER: 660055 **DATE OF BIRTH:** 10 January 1958
APPELLANT'S ADDRESS: 2040 N. Nagle, Chicago, IL 60607
APPELLANT'S ATTORNEY: State Appellate Defender
ADDRESS: 203 N. LaSalle Street, 24th Floor, Chicago, IL 60601
OFFENSE: Theft
JUDGMENT: Guilty on a Finding
DATE: October 9, 2014
SENTENCE: 3 years IDOC


 APPELLANT or ATTORNEY

**VERIFIED PETITION FOR REPORT OF PROCEEDINGS
COMMON LAW RECORD AND FOR APPOINTMENT OF COUNSEL ON APPEAL**

Under Supreme Court Rules 605-608, appellant asks the Court to order the Official Court Reporter to transcribe an original and copy of the proceedings, file the original with the Clerk and deliver a copy to the Appellant; order the Clerk to prepare the Record on Appeal and to Appoint Counsel on Appeal. Appellant, being duly sworn, says that at the time of his conviction he was and is now unable to pay for the Record or retain counsel on appeal.


 APPELLANT or ATTORNEY

Subscribed and Sworn to this _____ day of _____, 20____


 Notary Public

ORDER

IT IS ORDERED the State Appellate Defender be appointed as counsel on appeal and the Record and Report of Proceedings be furnished appellant without cost. Dates to be transcribed:

PRE-TRIAL MOTION DATE (S) _____

JURY WAIVER DATE September 11, 2014

TRIAL DATE (s) September 11, 2014


SENTENCING DATE (s) October 9, 2014

DATE: OCTOBER 9, 2014

ENTER:


 JUDGE

ENTERED
 THIRD MUNICIPAL DISTRICT
 OF CIRCUIT COURT COOK COUNTY
 OCT 09 2014
 DOROTHY BROWN
 CLERK OF CIRCUIT COURT

 KeyCite Red Flag - Severe Negative Treatment

Unconstitutional or PreemptedHeld Unconstitutional by State v. Pepitone, Ill.App. 3 Dist., Feb. 10, 2017

West's Smith-Hurd Illinois Compiled Statutes Annotated

Chapter 720. Criminal Offenses

Criminal Code

Act 5. Criminal Code of 2012 (Refs & Annos)

Title III. Specific Offenses

Part B. Offenses Directed Against the Person

Article 11. Sex Offenses (Refs & Annos)

Subdivision 10. Vulnerable Victim Offenses

720 ILCS 5/11-9.4-1

5/11-9.4-1. Sexual predator and child sex offender; presence or loitering in or near public parks prohibited

Effective: January 1, 2013

Currentness

§ 11-9.4-1. Sexual predator and child sex offender; presence or loitering in or near public parks prohibited.

(a) For the purposes of this Section:

“Child sex offender” has the meaning ascribed to it in subsection (d) of Section 11-9.3 of this Code, but does not include as a sex offense under paragraph (2) of subsection (d) of Section 11-9.3, the offenses under subsections (b) and (c) of Section 11-1.50 or subsections (b) and (c) of Section 12-15 of this Code.

“Public park” includes a park, forest preserve, bikeway, trail, or conservation area under the jurisdiction of the State or a unit of local government.

“Loiter” means:

(i) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around public park property.

(ii) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around public park property, for the purpose of committing or attempting to commit a sex offense.

“Sexual predator” has the meaning ascribed to it in subsection (E) of Section 2 of the Sex Offender Registration Act.

(b) It is unlawful for a sexual predator or a child sex offender to knowingly be present in any public park building or on real property comprising any public park.

(c) It is unlawful for a sexual predator or a child sex offender to knowingly loiter on a public way within 500 feet of a public park building or real property comprising any public park. For the purposes of this subsection (c), the 500 feet distance shall be measured from the edge of the property comprising the public park building or the real property comprising the public park.

(d) Sentence. A person who violates this Section is guilty of a Class A misdemeanor, except that a second or subsequent violation is a Class 4 felony.

Credits

Laws 1961, p. 1983, § 11-9.4-1, added by P.A. 96-1099, § 5, eff. Jan. 1, 2011. Amended by P.A. 97-698, § 10, eff. Jan. 1, 2013; P.A. 97-1109, § 15-55, eff. Jan. 1, 2013.

Notes of Decisions (9)

720 I.L.C.S. 5/11-9.4-1, IL ST CH 720 § 5/11-9.4-1

Current through Public Acts effective August 28, 2017, through P.A. 100-464.

End of Document

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/1

Formerly cited as IL ST CH 38 ¶ 221

150/1. Short title

Currentness

§ 1. Short title. This Article may be cited as the Sex Offender Registration Act.

Credits

P.A. 84-1279, Art. I, § 1, eff. Aug. 15, 1986. Amended by P.A. 87-1064, § 1, eff. Jan. 1, 1993; P.A. 89-8, Art. 20, § 20-20, eff. Jan. 1, 1996.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 221.


Notes of Decisions (51)

730 I.L.C.S. 150/1, IL ST CH 730 § 150/1


Current through Public Acts effective August 28, 2017, through P.A. 100-464.

End of Document

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 KeyCite Red Flag - Severe Negative Treatment

Enacted Legislation Amended by 2017 Ill. Legis. Serv. P.A. 100-428 (S.B. 1321) (WEST),

 KeyCite Yellow Flag - Negative Treatment Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated

Chapter 730. Corrections

Act 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/2
Formerly cited as IL ST CH 38 ¶ 222

150/2. Definitions

Effective: January 25, 2013
Currentness

§ 2. Definitions.

(A) As used in this Article, “sex offender” means any person who is:

(1) charged pursuant to Illinois law, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, with a sex offense set forth in subsection (B) of this Section or the attempt to commit an included sex offense, and:

(a) is convicted of such offense or an attempt to commit such offense; or

(b) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(c) is found not guilty by reason of insanity pursuant to Section 104-25(c) of the Code of Criminal Procedure of 1963¹ of such offense or an attempt to commit such offense; or

(d) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(e) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal, Uniform Code of Military

Justice, sister state, or foreign country law substantially similar to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(f) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(2) declared as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act,² or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(3) subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act;³ or

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act⁴ or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(5) adjudicated a juvenile delinquent as the result of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, or found guilty under Article V of the Juvenile Court Act of 1987 of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Article as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Article.

For purposes of this Section, “convicted” shall have the same meaning as “adjudicated”.

(B) As used in this Article, “sex offense” means:

(1) A violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012:⁵

11-20.1 (child pornography),⁶

11-20.1B or 11-20.3 (aggravated child pornography),

11-6 (indecent solicitation of a child),⁷

11-9.1 (sexual exploitation of a child),⁸_—

11-9.2 (custodial sexual misconduct),

11-9.5 (sexual misconduct with a person with a disability),

11-14.4 (promoting juvenile prostitution),

11-15.1 (soliciting for a juvenile prostitute),⁹_—

11-18.1 (patronizing a juvenile prostitute),¹⁰_—

11-17.1 (keeping a place of juvenile prostitution),¹¹_—

11-19.1 (juvenile pimping),¹²_—

11-19.2 (exploitation of a child),¹³_—

11-25 (grooming),

11-26 (traveling to meet a minor),

11-1.20 or 12-13 (criminal sexual assault),¹⁴_—

11-1.30 or 12-14 (aggravated criminal sexual assault),¹⁵_—

11-1.40 or 12-14.1 (predatory criminal sexual assault of a child),¹⁶_—

11-1.50 or 12-15 (criminal sexual abuse),¹⁷_—

11-1.60 or 12-16 (aggravated criminal sexual abuse),¹⁸_—

12-33 (ritualized abuse of a child),¹⁹_—

An attempt to commit any of these offenses.

(1.5) A violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012, when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in

Section 10 of the Sex Offender Evaluation and Treatment Act, and the offense was committed on or after January 1, 1996:

10-1 (kidnapping),²⁰

10-2 (aggravated kidnapping),²¹

10-3 (unlawful restraint),²²

10-3.1 (aggravated unlawful restraint).²³

If the offense was committed before January 1, 1996, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.6) First degree murder under Section 9-1 of the Criminal Code of 1961 or the Criminal Code of 2012,²⁴ provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.7) (Blank).

(1.8) A violation or attempted violation of Section 11-11 (sexual relations within families) of the Criminal Code of 1961 or the Criminal Code of 2012,²⁵ and the offense was committed on or after June 1, 1997. If the offense was committed before June 1, 1997, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.9) Child abduction under paragraph (10) of subsection (b) of Section 10-5 of the Criminal Code of 1961 or the Criminal Code of 2012²⁶ committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act. If the offense was committed before January 1, 1998, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.10) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012 when the offense was committed on or after July 1, 1999:

10-4 (forcible detention, if the victim is under 18 years of age),²⁷ provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act,

11-6.5 (indecent solicitation of an adult),²⁸

11-14.3 that involves soliciting for a prostitute, or 11-15 (soliciting for a prostitute, if the victim is under 18 years of age),²⁹

subdivision (a)(2)(A) or (a)(2)(B) of Section 11-14.3, or Section 11-16 (pandering, if the victim is under 18 years of age),³⁰

11-18 (patronizing a prostitute, if the victim is under 18 years of age),³¹

subdivision (a)(2)(C) of Section 11-14.3, or Section 11-19 (pimping, if the victim is under 18 years of age).³²

If the offense was committed before July 1, 1999, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.11) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012 when the offense was committed on or after August 22, 2002:

11-9 or 11-30 (public indecency for a third or subsequent conviction).

If the third or subsequent conviction was imposed before August 22, 2002, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.12) A violation or attempted violation of Section 5.1 of the Wrongs to Children Act or Section 11-9.1A of the Criminal Code of 1961 or the Criminal Code of 2012 (permitting sexual abuse) when the offense was committed on or after August 22, 2002. If the offense was committed before August 22, 2002, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(2) A violation of any former law of this State substantially equivalent to any offense listed in subsection (B) of this Section.

(C) A conviction for an offense of federal law, Uniform Code of Military Justice, or the law of another state or a foreign country that is substantially equivalent to any offense listed in subsections (B), (C), (E), and (E-5) of this Section shall constitute a conviction for the purpose of this Article. A finding or adjudication as a sexually dangerous person or a sexually violent person under any federal law, Uniform Code of Military Justice, or the law of another state or foreign country that is substantially equivalent to the Sexually Dangerous Persons Act or the Sexually Violent Persons Commitment Act shall constitute an adjudication for the purposes of this Article.

(C-5) A person at least 17 years of age at the time of the commission of the offense who is convicted of first degree murder under Section 9-1 of the Criminal Code of 1961 or the Criminal Code of 2012, against a person under 18 years of age, shall be required to register for natural life. A conviction for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (C-5) of this Section shall constitute a conviction for the purpose of this Article. This subsection (C-5) applies to a person who committed the offense before June 1, 1996 if: (i) the person is incarcerated in an Illinois Department of Corrections facility on August 20, 2004 (the effective date of Public Act 93-977), or (ii) subparagraph (i) does not apply and the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(C-6) A person who is convicted or adjudicated delinquent of first degree murder as defined in Section 9-1 of the Criminal Code of 1961 or the Criminal Code of 2012, against a person 18 years of age or over, shall be required to register for his or her natural

life. A conviction for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (C-6) of this Section shall constitute a conviction for the purpose of this Article. This subsection (C-6) does not apply to those individuals released from incarceration more than 10 years prior to January 1, 2012 (the effective date of Public Act 97-154).

(D) As used in this Article, "law enforcement agency having jurisdiction" means the Chief of Police in each of the municipalities in which the sex offender expects to reside, work, or attend school (1) upon his or her discharge, parole or release or (2) during the service of his or her sentence of probation or conditional discharge, or the Sheriff of the county, in the event no Police Chief exists or if the offender intends to reside, work, or attend school in an unincorporated area. "Law enforcement agency having jurisdiction" includes the location where out-of-state students attend school and where out-of-state employees are employed or are otherwise required to register.

(D-1) As used in this Article, "supervising officer" means the assigned Illinois Department of Corrections parole agent or county probation officer.

(E) As used in this Article, "sexual predator" means any person who, after July 1, 1999, is:

(1) Convicted for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (E) or (E-5) of this Section shall constitute a conviction for the purpose of this Article. Convicted of a violation or attempted violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012:

10-5.1 (luring of a minor),

11-14.4 that involves keeping a place of juvenile prostitution, or 11-17.1 (keeping a place of juvenile prostitution),

subdivision (a)(2) or (a)(3) of Section 11-14.4, or Section 11-19.1 (juvenile pimping),

subdivision (a)(4) of Section 11-14.4, or Section 11-19.2 (exploitation of a child),

11-20.1 (child pornography),

11-20.1B or 11-20.3 (aggravated child pornography),

11-1.20 or 12-13 (criminal sexual assault),

11-1.30 or 12-14 (aggravated criminal sexual assault),

11-1.40 or 12-14.1 (predatory criminal sexual assault of a child),

11-1.60 or 12-16 (aggravated criminal sexual abuse),

12-33 (ritualized abuse of a child);

(2) (blank);

(3) declared as a sexually dangerous person pursuant to the Sexually Dangerous Persons Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law;

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law;

(5) convicted of a second or subsequent offense which requires registration pursuant to this Act. For purposes of this paragraph (5), "convicted" shall include a conviction under any substantially similar Illinois, federal, Uniform Code of Military Justice, sister state, or foreign country law;

(6) (blank); or

(7) if the person was convicted of an offense set forth in this subsection (E) on or before July 1, 1999, the person is a sexual predator for whom registration is required only when the person is convicted of a felony offense after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(E-5) As used in this Article, "sexual predator" also means a person convicted of a violation or attempted violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012:

(1) Section 9-1 (first degree murder, when the victim was a person under 18 years of age and the defendant was at least 17 years of age at the time of the commission of the offense, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act);

(2) Section 11-9.5 (sexual misconduct with a person with a disability);

(3) when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act, and the offense was committed on or after January 1, 1996: (A) Section 10-1 (kidnapping), (B) Section 10-2 (aggravated kidnapping), (C) Section 10-3 (unlawful restraint), and (D) Section 10-3.1 (aggravated unlawful restraint); and

(4) Section 10-5(b)(10) (child abduction committed by luring or attempting to lure a child under the age of 16 into a motor

vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act).

(E-10) As used in this Article, “sexual predator” also means a person required to register in another State due to a conviction, adjudication or other action of any court triggering an obligation to register as a sex offender, sexual predator, or substantially similar status under the laws of that State.

(F) As used in this Article, “out-of-state student” means any sex offender, as defined in this Section, or sexual predator who is enrolled in Illinois, on a full-time or part-time basis, in any public or private educational institution, including, but not limited to, any secondary school, trade or professional institution, or institution of higher learning.

(G) As used in this Article, “out-of-state employee” means any sex offender, as defined in this Section, or sexual predator who works in Illinois, regardless of whether the individual receives payment for services performed, for a period of time of 10 or more days or for an aggregate period of time of 30 or more days during any calendar year. Persons who operate motor vehicles in the State accrue one day of employment time for any portion of a day spent in Illinois.

(H) As used in this Article, “school” means any public or private educational institution, including, but not limited to, any elementary or secondary school, trade or professional institution, or institution of higher education.

(I) As used in this Article, “fixed residence” means any and all places that a sex offender resides for an aggregate period of time of 5 or more days in a calendar year.

(J) As used in this Article, “Internet protocol address” means the string of numbers by which a location on the Internet is identified by routers or other computers connected to the Internet.

Credits

P.A. 84-1279, Art. I, § 2, eff. Aug. 15, 1986. Amended by P.A. 87-457, § 2, eff. Jan. 1, 1992; P.A. 87-1064, § 1, eff. Jan. 1, 1993; P.A. 88-467, § 35, eff. July 1, 1994; P.A. 89-8, Art. 20, § 20-20, eff. Jan. 1, 1996; P.A. 89-428, Art. 1, § 197, eff. June 1, 1996; P.A. 89-462, Art. 1, § 197, eff. June 1, 1996; P.A. 90-193, § 15, eff. July 24, 1997; P.A. 90-494, § 5, eff. Jan. 1, 1998; P.A. 90-655, § 164, eff. July 30, 1998; P.A. 91-48, § 5, eff. July 1, 1999; P.A. 92-828, § 5, eff. Aug. 22, 2002; P.A. 93-977, § 5, eff. Aug. 20, 2004; P.A. 93-979, § 10, eff. Aug. 20, 2004; P.A. 94-166, § 5, eff. Jan. 1, 2006; P.A. 94-168, § 5, eff. Jan. 1, 2006; P.A. 94-945, § 1025, eff. June 27, 2006; P.A. 94-1053, § 10, eff. July 24, 2006; P.A. 95-331, § 1075, eff. Aug. 21, 2007; P.A. 95-579, § 15, eff. June 1, 2008; P.A. 95-625, § 15, eff. June 1, 2008; P.A. 95-658, § 5, eff. Oct. 11, 2007; P.A. 95-876, § 360, eff. Aug. 21, 2008; P.A. 96-301, § 5, eff. Aug. 11, 2009; P.A. 96-1089, § 5, eff. Jan. 1, 2011; P.A. 96-1551, Art. 2, § 1075, eff. July 1, 2011; P.A. 97-154, § 25, eff. Jan. 1, 2012; P.A. 97-578, § 5, eff. Jan. 1, 2012; P.A. 97-1073, § 10, eff. Jan. 1, 2013; P.A. 97-1098, § 195, eff. Jan. 1, 2013; P.A. 97-1109, § 15-70, eff. Jan. 1, 2013; P.A. 97-1150, § 690, eff. Jan. 25, 2013.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 222.

Notes of Decisions (90)

Footnotes

- 1 725 ILCS 5/104-25.
- 2 725 ILCS 205/0.01 et seq.
- 3 45 ILCS 20/2.
- 4 725 ILCS 207/1 et seq.
- 5 720 ILCS 5/1-1 et seq.
- 6 720 ILCS 5/11-20.1.
- 7 720 ILCS 5/11-6.
- 8 720 ILCS 5/11-9.1.
- 9 720 ILCS 5/11-15.1.
- 10 720 ILCS 5/11-18.1.
- 11 720 ILCS 5/11-17.1.
- 12 720 ILCS 5/11-19.1.
- 13 720 ILCS 5/11-19.2.
- 14 720 ILCS 5/11-1.20 or 5/12-13.
- 15 720 ILCS 5/11-1.30 or 5/12-14.
- 16 720 ILCS 5/11-1.40 or 5/12-14.1.
- 17 720 ILCS 5/11-1.50 or 5/12-15.
- 18 720 ILCS 5/11-1.60 or 5/12-16.
- 19 720 ILCS 5/12-33.
- 20 720 ILCS 5/10-1.
- 21 720 ILCS 5/10-2.
- 22 720 ILCS 5/10-3.
- 23 720 ILCS 5/10-3.1.
- 24 720 ILCS 5/9-1.

- 25 720 ILCS 5/11-11.
- 26 720 ILCS 5/10-5.
- 27 720 ILCS 5/10-4.
- 28 720 ILCS 5/11-6.5.
- 29 720 ILCS 5/11-14.3 or 5/11-15.
- 30 720 ILCS 5/11-14.3 or 5/11-16.
- 31 720 ILCS 5/11-18.
- 32 720 ILCS 5/11-14.3 or 5/11-19.

730 I.L.C.S. 150/2, IL ST CH 730 § 150/2

Current through Public Acts effective August 28, 2017, through P.A. 100-464.

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Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 730. Corrections
Act 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/3
 Formerly cited as IL ST CH 38 ¶ 223

150/3. Duty to register

Effective: August 5, 2016
Currentness

§ 3. Duty to register.

(a) A sex offender, as defined in Section 2 of this Act, or sexual predator shall, within the time period prescribed in subsections (b) and (c), register in person and provide accurate information as required by the Department of State Police. Such information shall include a current photograph, current address, current place of employment, the sex offender's or sexual predator's telephone number, including cellular telephone number, the employer's telephone number, school attended, all e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities that the sex offender uses or plans to use, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, extensions of the time period for registering as provided in this Article and, if an extension was granted, the reason why the extension was granted and the date the sex offender was notified of the extension. The information shall also include a copy of the terms and conditions of parole or release signed by the sex offender and given to the sex offender by his or her supervising officer or aftercare specialist, the county of conviction, license plate numbers for every vehicle registered in the name of the sex offender, the age of the sex offender at the time of the commission of the offense, the age of the victim at the time of the commission of the offense, and any distinguishing marks located on the body of the sex offender. A sex offender convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 or the Criminal Code of 2012 shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. If the sex offender is a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 or the Criminal Code of 2012, the sex offender shall report to the registering agency whether he or she is living in a household with a child under 18 years of age who is not his or her own child, provided that his or her own child is not the victim of the sex offense. The sex offender or sexual predator shall register:

(1) with the chief of police in the municipality in which he or she resides or is temporarily domiciled for a period of time of 3 or more days, unless the municipality is the City of Chicago, in which case he or she shall register at a fixed location designated by the Superintendent of the Chicago Police Department; or

(2) with the sheriff in the county in which he or she resides or is temporarily domiciled for a period of time of 3 or more days in an unincorporated area or, if incorporated, no police chief exists.

If the sex offender or sexual predator is employed at or attends an institution of higher education, he or she shall also register:

(i) with:

(A) the chief of police in the municipality in which he or she is employed at or attends an institution of higher education, unless the municipality is the City of Chicago, in which case he or she shall register at a fixed location designated by the Superintendent of the Chicago Police Department; or

(B) the sheriff in the county in which he or she is employed or attends an institution of higher education located in an unincorporated area, or if incorporated, no police chief exists; and

(ii) with the public safety or security director of the institution of higher education which he or she is employed at or attends.

The registration fees shall only apply to the municipality or county of primary registration, and not to campus registration.

For purposes of this Article, the place of residence or temporary domicile is defined as any and all places where the sex offender resides for an aggregate period of time of 3 or more days during any calendar year. Any person required to register under this Article who lacks a fixed address or temporary domicile must notify, in person, the agency of jurisdiction of his or her last known address within 3 days after ceasing to have a fixed residence.

A sex offender or sexual predator who is temporarily absent from his or her current address of registration for 3 or more days shall notify the law enforcement agency having jurisdiction of his or her current registration, including the itinerary for travel, in the manner provided in Section 6 of this Act for notification to the law enforcement agency having jurisdiction of change of address.

Any person who lacks a fixed residence must report weekly, in person, with the sheriff's office of the county in which he or she is located in an unincorporated area, or with the chief of police in the municipality in which he or she is located. The agency of jurisdiction will document each weekly registration to include all the locations where the person has stayed during the past 7 days.

The sex offender or sexual predator shall provide accurate information as required by the Department of State Police. That information shall include the sex offender's or sexual predator's current place of employment.

(a-5) An out-of-state student or out-of-state employee shall, within 3 days after beginning school or employment in this State, register in person and provide accurate information as required by the Department of State Police. Such information will include

current place of employment, school attended, and address in state of residence. A sex offender convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 or the Criminal Code of 2012 shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. The out-of-state student or out-of-state employee shall register:

(1) with:

(A) the chief of police in the municipality in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year, unless the municipality is the City of Chicago, in which case he or she shall register at a fixed location designated by the Superintendent of the Chicago Police Department; or

(B) the sheriff in the county in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year in an unincorporated area or, if incorporated, no police chief exists; and

(2) with the public safety or security director of the institution of higher education he or she is employed at or attends for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during a calendar year.

The registration fees shall only apply to the municipality or county of primary registration, and not to campus registration.

The out-of-state student or out-of-state employee shall provide accurate information as required by the Department of State Police. That information shall include the out-of-state student's current place of school attendance or the out-of-state employee's current place of employment.

(a-10) Any law enforcement agency registering sex offenders or sexual predators in accordance with subsections (a) or (a-5) of this Section shall forward to the Attorney General a copy of sex offender registration forms from persons convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 or the Criminal Code of 2012, including periodic and annual registrations under Section 6 of this Act.

(b) Any sex offender, as defined in Section 2 of this Act, or sexual predator, regardless of any initial, prior, or other registration, shall, within 3 days of beginning school, or establishing a residence, place of employment, or temporary domicile in any county, register in person as set forth in subsection (a) or (a-5).

(c) The registration for any person required to register under this Article shall be as follows:

(1) Any person registered under the Habitual Child Sex Offender Registration Act or the Child Sex Offender Registration Act prior to January 1, 1996, shall be deemed initially registered as of January 1, 1996; however, this shall not be construed to extend

the duration of registration set forth in Section 7.

(2) Except as provided in subsection (c)(2.1) or (c)(4), any person convicted or adjudicated prior to January 1, 1996, whose liability for registration under Section 7 has not expired, shall register in person prior to January 31, 1996.

(2.1) A sex offender or sexual predator, who has never previously been required to register under this Act, has a duty to register if the person has been convicted of any felony offense after July 1, 2011. A person who previously was required to register under this Act for a period of 10 years and successfully completed that registration period has a duty to register if: (i) the person has been convicted of any felony offense after July 1, 2011, and (ii) the offense for which the 10 year registration was served currently requires a registration period of more than 10 years. Notification of an offender's duty to register under this subsection shall be pursuant to Section 5-7 of this Act.

(2.5) Except as provided in subsection (c)(4), any person who has not been notified of his or her responsibility to register shall be notified by a criminal justice entity of his or her responsibility to register. Upon notification the person must then register within 3 days of notification of his or her requirement to register. Except as provided in subsection (c)(2.1), if notification is not made within the offender's 10 year registration requirement, and the Department of State Police determines no evidence exists or indicates the offender attempted to avoid registration, the offender will no longer be required to register under this Act.

(3) Except as provided in subsection (c)(4), any person convicted on or after January 1, 1996, shall register in person within 3 days after the entry of the sentencing order based upon his or her conviction.

(4) Any person unable to comply with the registration requirements of this Article because he or she is confined, institutionalized, or imprisoned in Illinois on or after January 1, 1996, shall register in person within 3 days of discharge, parole or release.

(5) The person shall provide positive identification and documentation that substantiates proof of residence at the registering address.

(6) The person shall pay a \$100 initial registration fee and a \$100 annual renewal fee to the registering law enforcement agency having jurisdiction. The registering agency may waive the registration fee if it determines that the person is indigent and unable to pay the registration fee. Thirty-five dollars for the initial registration fee and \$35 of the annual renewal fee shall be retained and used by the registering agency for official purposes. Having retained \$35 of the initial registration fee and \$35 of the annual renewal fee, the registering agency shall remit the remainder of the fee to State agencies within 30 days of receipt for deposit into the State funds as follows:

(A) Five dollars of the initial registration fee and \$5 of the annual fee shall be remitted to the State Treasurer who shall deposit the moneys into the Sex Offender Management Board Fund under Section 19 of the Sex Offender Management Board Act. Money deposited into the Sex Offender Management Board Fund shall be administered by the Sex Offender Management Board and shall be used by the Board to comply with the provisions of the Sex Offender Management Board Act.

(B) Thirty dollars of the initial registration fee and \$30 of the annual renewal fee shall be remitted to the Department of State Police which shall deposit the moneys into the Sex Offender Registration Fund and shall be used by the Department of State Police to maintain and update the Illinois State Police Sex Offender Registry.

(C) Thirty dollars of the initial registration fee and \$30 of the annual renewal fee shall be remitted to the Attorney General who shall deposit the moneys into the Attorney General Sex Offender Awareness, Training, and Education Fund. Moneys deposited into the Fund shall be used by the Attorney General to administer the I-SORT program and to alert and educate the public, victims, and witnesses of their rights under various victim notification laws and for training law enforcement agencies, State's Attorneys, and medical providers of their legal duties concerning the prosecution and investigation of sex offenses.

The registering agency shall establish procedures to document the receipt and remittance of the \$100 initial registration fee and \$100 annual renewal fee.

(d) Within 3 days after obtaining or changing employment and, if employed on January 1, 2000, within 5 days after that date, a person required to register under this Section must report, in person to the law enforcement agency having jurisdiction, the business name and address where he or she is employed. If the person has multiple businesses or work locations, every business and work location must be reported to the law enforcement agency having jurisdiction.

Credits

P.A. 84-1279, Art. I, § 3, eff. Aug. 15, 1986. Amended by P.A. 87-1064, § 1, eff. Jan. 1, 1993; P.A. 89-8, Art. 20, § 20-20, eff. Jan. 1, 1996; P.A. 90-193, § 15, eff. July 24, 1997; P.A. 91-48, § 5, eff. July 1, 1999; P.A. 91-394, § 5, eff. Jan. 1, 2000; P.A. 92-828, § 5, eff. Aug. 22, 2002; P.A. 93-616, § 30, eff. Jan. 1, 2004; P.A. 93-979, § 10, eff. Aug. 20, 2004; P.A. 94-166, § 5, eff. Jan. 1, 2006; P.A. 94-168, § 5, eff. Jan. 1, 2006; P.A. 94-994, § 5, eff. Jan. 1, 2007; P.A. 95-229, § 5, eff. Aug. 16, 2007; P.A. 95-579, § 15, eff. June 1, 2008; P.A. 95-640, § 25, eff. June 1, 2008; P.A. 95-658, § 5, eff. Oct. 11, 2007; P.A. 95-876, § 360, eff. Aug. 21, 2008; P.A. 96-1094, § 10, eff. Jan. 1, 2011; P.A. 96-1096, § 10, eff. Jan. 1, 2011; P.A. 96-1097, § 5, eff. Jan. 1, 2011; P.A. 96-1102, § 5, eff. Jan. 1, 2011; P.A. 96-1104, § 5, eff. Jan. 1, 2011; P.A. 96-1551, Art. 2, § 1075, eff. July 1, 2011; P.A. 97-155, § 5, eff. Jan. 1, 2012; P.A. 97-333, § 565, eff. Aug. 12, 2011; P.A. 97-578, § 5, eff. Jan. 1, 2012; P.A. 97-1098, § 195, eff. Jan. 1, 2013; P.A. 97-1109, § 15-70, eff. Jan. 1, 2013; P.A. 97-1150, § 690, eff. Jan. 25, 2013; P.A. 98-558, § 115, eff. Jan. 1, 2014; P.A. 98-612, § 10, eff. Dec. 27, 2013; P.A. 99-755, § 10, eff. Aug. 5, 2016.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 223.

Notes of Decisions (109)

Footnotes

1 Short title so in enrolled bill; see 730 ILCS 150/1 et seq.

2 Short title so in enrolled bill; see 730 ILCS 152/101 et seq.

730 I.L.C.S. 150/3, IL ST CH 730 § 150/3

Current through Public Acts effective August 28, 2017, through P.A. 100-464.

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 730. Corrections
Act 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/3-5

150/3-5. Application of Act to adjudicated juvenile delinquents
Effective: January 1, 2014
Currentness

§ 3-5. Application of Act to adjudicated juvenile delinquents.

(a) In all cases involving an adjudicated juvenile delinquent who meets the definition of sex offender as set forth in paragraph (5) of subsection (A) of Section 2 of this Act, the court shall order the minor to register as a sex offender.

(b) Once an adjudicated juvenile delinquent is ordered to register as a sex offender, the adjudicated juvenile delinquent shall be subject to the registration requirements set forth in Sections 3, 6, 6-5, 8, 8-5, and 10 for the term of his or her registration.

(c) For a minor adjudicated delinquent for an offense which, if charged as an adult, would be a felony, no less than 5 years after registration ordered pursuant to subsection (a) of this Section, the minor may petition for the termination of the term of registration. For a minor adjudicated delinquent for an offense which, if charged as an adult, would be a misdemeanor, no less than 2 years after registration ordered pursuant to subsection (a) of this Section, the minor may petition for termination of the term of registration.

(d) The court may upon a hearing on the petition for termination of registration, terminate registration if the court finds that the registrant poses no risk to the community by a preponderance of the evidence based upon the factors set forth in subsection (e).

Notwithstanding any other provisions of this Act to the contrary, no registrant whose registration has been terminated under this Section shall be required to register under the provisions of this Act for the offense or offenses which were the subject of the successful petition for termination of registration. This exemption shall apply only to those offenses which were the subject of the successful petition for termination of registration, and shall not apply to any other or subsequent offenses requiring registration under this Act.

(e) To determine whether a registrant poses a risk to the community as required by subsection (d), the court shall consider the following factors:

(1) a risk assessment performed by an evaluator licensed under the Sex Offender Evaluation and Treatment Provider Act;

- (2) the sex offender history of the adjudicated juvenile delinquent;
 - (3) evidence of the adjudicated juvenile delinquent's rehabilitation;
 - (4) the age of the adjudicated juvenile delinquent at the time of the offense;
 - (5) information related to the adjudicated juvenile delinquent's mental, physical, educational, and social history;
 - (6) victim impact statements; and
 - (7) any other factors deemed relevant by the court.
- (f) At the hearing set forth in subsections (c) and (d), a registrant shall be represented by counsel and may present a risk assessment conducted by an evaluator who is licensed under the Sex Offender Evaluation and Treatment Provider Act.
- (g) After a registrant completes the term of his or her registration, his or her name, address, and all other identifying information shall be removed from all State and local registries.
- (h) This Section applies retroactively to cases in which adjudicated juvenile delinquents who registered or were required to register before the effective date of this amendatory Act of the 95th General Assembly. On or after the effective date of this amendatory Act of the 95th General Assembly, a person adjudicated delinquent before the effective date of this amendatory Act of the 95th General Assembly may request a hearing regarding status of registration by filing a Petition Requesting Registration Status with the clerk of the court. Upon receipt of the Petition Requesting Registration Status, the clerk of the court shall provide notice to the parties and set the Petition for hearing pursuant to subsections (c) through (e) of this Section.
- (i) This Section does not apply to minors prosecuted under the criminal laws as adults.

Credits

P.A. 84-1279, Art. I, § 3-5, added by P.A. 95-658, § 5, eff. Oct. 11, 2007. Amended by P.A. 97-578, § 5, eff. Jan. 1, 2012; P.A. 97-1098, § 195, eff. Jan. 1, 2014.

Notes of Decisions (6)

150/3-5. Application of Act to adjudicated juvenile delinquents, IL ST CH 730 § 150/3-5

730 I.L.C.S. 150/3-5, IL ST CH 730 § 150/3-5

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/4
Formerly cited as IL ST CH 38 ¶ 224

150/4. Discharge of sex offender, as defined in Section 2 of this Act, or sexual predator from Department of Corrections facility or other penal institution; duties of official in charge

Effective: January 1, 2014
Currentness

§ 4. Discharge of sex offender, as defined in Section 2 of this Act, or sexual predator from Department of Corrections facility or other penal institution; duties of official in charge. Any sex offender, as defined in Section 2 of this Act, or sexual predator, as defined by this Article, who is discharged, paroled or released from a Department of Corrections or Department of Juvenile Justice facility, a facility where such person was placed by the Department of Corrections or Department of Juvenile Justice or another penal institution, and whose liability for registration has not terminated under Section 7 shall, prior to discharge, parole or release from the facility or institution, be informed of his or her duty to register in person within 3 days of release by the facility or institution in which he or she was confined. The facility or institution shall also inform any person who must register that if he or she establishes a residence outside of the State of Illinois, is employed outside of the State of Illinois, or attends school outside of the State of Illinois, he or she must register in the new state within 3 days after establishing the residence, beginning employment, or beginning school.

The facility shall require the person to read and sign such form as may be required by the Department of State Police stating that the duty to register and the procedure for registration has been explained to him or her and that he or she understands the duty to register and the procedure for registration. The facility shall further advise the person in writing that the failure to register or other violation of this Article shall result in revocation of parole, aftercare release, mandatory supervised release or conditional release. The facility shall obtain information about where the person expects to reside, work, and attend school upon his or her discharge, parole or release and shall report the information to the Department of State Police. The facility shall give one copy of the form to the person and shall send one copy to each of the law enforcement agencies having jurisdiction where the person expects to reside, work, and attend school upon his or her discharge, parole or release and retain one copy for the files. Electronic data files which includes all notification form information and photographs of sex offenders being released from an Illinois Department of Corrections or Illinois Department of Juvenile Justice facility will be shared on a regular basis as determined between the Department of State Police, the Department of Corrections, and Department of Juvenile Justice.

Credits

P.A. 84-1279, Art. I, § 4, eff. Aug. 15, 1986. Amended by P.A. 87-1064, § 1, eff. Jan. 1, 1993; P.A. 89-8, Art. 20, § 20-20, eff. Jan. 1, 1996; P.A. 90-193, § 15, eff. July 24, 1997; P.A. 91-48, § 5, eff. July 1, 1999; P.A. 92-828, § 5, eff. Aug. 22, 2002; P.A. 94-168, § 5, eff. Jan. 1, 2006; P.A. 95-640, § 25, eff. June 1, 2008; P.A. 98-558, § 115, eff. Jan. 1, 2014.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 224.

150/4. Discharge of sex offender, as defined in Section 2 of..., IL ST CH 730 § 150/4

730 I.L.C.S. 150/4, IL ST CH 730 § 150/4

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West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 730. Corrections
Act 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/5
 Formerly cited as IL ST CH 38 ¶ 225

150/5. Release of sex offender, as defined in Section 2 of this Act, or sexual predator; duties of the Court

Effective: June 1, 2008
Currentness

§ 5. Release of sex offender, as defined in Section 2 of this Act, or sexual predator; duties of the Court. Any sex offender, as defined in Section 2 of this Act, or sexual predator, as defined by this Article, who is released on probation or discharged upon payment of a fine because of the commission of one of the offenses defined in subsection (B) of Section 2 of this Article, shall, prior to such release be informed of his or her duty to register under this Article by the Court in which he or she was convicted. The Court shall also inform any person who must register that if he or she establishes a residence outside of the State of Illinois, is employed outside of the State of Illinois, or attends school outside of the State of Illinois, he or she must register in the new state within 3 days after establishing the residence, beginning employment, or beginning school. The Court shall require the person to read and sign such form as may be required by the Department of State Police stating that the duty to register and the procedure for registration has been explained to him or her and that he or she understands the duty to register and the procedure for registration. The Court shall further advise the person in writing that the failure to register or other violation of this Article shall result in probation revocation. The Court shall obtain information about where the person expects to reside, work, and attend school upon his or her release, and shall report the information to the Department of State Police. The Court shall give one copy of the form to the person and retain the original in the court records. The Department of State Police shall notify the law enforcement agencies having jurisdiction where the person expects to reside, work and attend school upon his or her release.

Credits

P.A. 84-1279, Art. I, § 5, eff. Aug. 15, 1986. Amended by P.A. 87-1064, § 1, eff. Jan. 1, 1993; P.A. 89-8, Art. 20, § 20-20, eff. Jan. 1, 1996; P.A. 90-193, § 15, eff. July 24, 1997; P.A. 91-48, § 5, eff. July 1, 1999; P.A. 92-828, § 5, eff. Aug. 22, 2002; P.A. 94-168, § 5, eff. Jan. 1, 2006; P.A. 95-640, § 25, eff. June 1, 2008.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 225.

Notes of Decisions (5)

730 I.L.C.S. 150/5, IL ST CH 730 § 150/5
 Current through Public Acts effective August 28, 2017, through P.A. 100-464.

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 730. Corrections
Act 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/5-5

150/5-5. Discharge of sex offender or sexual predator from a hospital or other treatment facility; duties of the official in charge

Effective: June 1, 2008

Currentness

§ 5-5. Discharge of sex offender or sexual predator from a hospital or other treatment facility; duties of the official in charge. Any sex offender, as defined in Section 2 of this Act, or sexual predator, as defined in this Article, who is discharged or released from a hospital or other treatment facility where he or she was confined shall be informed by the hospital or treatment facility in which he or she was confined, prior to discharge or release from the hospital or treatment facility, of his or her duty to register under this Article.

The facility shall require the person to read and sign such form as may be required by the Department of State Police stating that the duty to register and the procedure for registration has been explained to him or her and that he or she understands the duty to register and the procedure for registration. The facility shall give one copy of the form to the person, retain one copy for their records, and forward the original to the Department of State Police. The facility shall obtain information about where the person expects to reside, work, and attend school upon his or her discharge, parole, or release and shall report the information to the Department of State Police within 3 days. The facility or institution shall also inform any person who must register that if he or she establishes a residence outside of the State of Illinois, is employed outside of the State of Illinois, or attends school outside of the State of Illinois, he or she must register in the new state within 3 days after establishing the residence, beginning school, or beginning employment. The Department of State Police shall notify the law enforcement agencies having jurisdiction where the person expects to reside, work, and attend school upon his or her release.

Credits

P.A. 84-1279, Art. I, § 5-5, added by P.A. 90-193, § 15, eff. July 24, 1997. Amended by P.A. 91-48, § 5, eff. July 1, 1999; P.A. 92-828, § 5, eff. Aug. 22, 2002; P.A. 94-168, § 5, eff. Jan. 1, 2006; P.A. 95-640, § 25, eff. June 1, 2008.

730 I.L.C.S. 150/5-5, IL ST CH 730 § 150/5-5

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/5-7

150/5-7. Notification and release or discharge of sex offender or sexual predator upon conviction for a felony offense committed after July 1, 2011

Effective: January 1, 2012

Currentness

§ 5-7. Notification and release or discharge of sex offender or sexual predator upon conviction for a felony offense committed after July 1, 2011. A person with a duty to register under paragraph (2.1) of subsection (c) of Section 3, who is released on probation or conditional discharge for conviction on a felony offense committed on or after July 1, 2011, shall, prior to release be notified of his or her duty to register as set forth in Section 5 of this Act. A person with a duty to register under paragraph (2.1) of subsection (c) of Section 3 who is discharged, paroled, or released from a Department of Corrections facility or other penal institution shall be notified of his or her duty to register as set forth in Section 4 of this Act. Any other person with a duty to register under paragraph (2.1) of subsection (c) of Section 3, who is unable to comply with the registration requirements because he or she is otherwise confined or institutionalized shall register in person within 3 days after release or discharge.

Credits

P.A. 84-1279, Art. I, § 5-7, added by P.A. 97-578, § 5, eff. Jan. 1, 2012.

Notes of Decisions (7)

730 I.L.C.S. 150/5-7, IL ST CH 730 § 150/5-7

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730 ILCS 150/5-10

150/5-10. Nonforwardable verification letters

Currentness

§ 5-10. Nonforwardable verification letters. The Department of State Police shall mail a quarterly nonforwardable verification letter to each registered person who has been adjudicated to be sexually dangerous or is a sexually violent person and is later released, or found to be no longer sexually dangerous or no longer a sexually violent person and discharged, beginning 90 days from the date of his or her last registration. To any other person registered under this Article, the Department of State Police shall mail an annual nonforwardable verification letter, beginning one year from the date of his or her last registration. A person required to register under this Article who is mailed a verification letter shall complete, sign, and return the enclosed verification form to the Department of State Police postmarked within 10 days after the mailing date of the letter. A person's failure to return the verification form to the Department of State Police within 10 days after the mailing date of the letter shall be considered a violation of this Article.

Credits

P.A. 84-1279, Art. I, § 5-10, added by P.A. 90-193, § 15, eff. July 24, 1997. Amended by P.A. 91-48, § 5, eff. July 1, 1999.

Notes of Decisions (1)

730 I.L.C.S. 150/5-10, IL ST CH 730 § 150/5-10

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Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 730. Corrections
Act 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/6
 Formerly cited as IL ST CH 38 ¶ 226

150/6. Duty to report; change of address, school, or employment; duty to inform

Effective: January 25, 2013
Currentness

§ 6. Duty to report; change of address, school, or employment; duty to inform. A person who has been adjudicated to be sexually dangerous or is a sexually violent person and is later released, or found to be no longer sexually dangerous or no longer a sexually violent person and discharged, or convicted of a violation of this Act after July 1, 2005, shall report in person to the law enforcement agency with whom he or she last registered no later than 90 days after the date of his or her last registration and every 90 days thereafter and at such other times at the request of the law enforcement agency not to exceed 4 times a year. Such sexually dangerous or sexually violent person must report all new or changed e-mail addresses, all new or changed instant messaging identities, all new or changed chat room identities, and all other new or changed Internet communications identities that the sexually dangerous or sexually violent person uses or plans to use, all new or changed Uniform Resource Locators (URLs) registered or used by the sexually dangerous or sexually violent person, and all new or changed blogs and other Internet sites maintained by the sexually dangerous or sexually violent person or to which the sexually dangerous or sexually violent person has uploaded any content or posted any messages or information. Any person who lacks a fixed residence must report weekly, in person, to the appropriate law enforcement agency where the sex offender is located. Any other person who is required to register under this Article shall report in person to the appropriate law enforcement agency with whom he or she last registered within one year from the date of last registration and every year thereafter and at such other times at the request of the law enforcement agency not to exceed 4 times a year. If any person required to register under this Article lacks a fixed residence or temporary domicile, he or she must notify, in person, the agency of jurisdiction of his or her last known address within 3 days after ceasing to have a fixed residence and if the offender leaves the last jurisdiction of residence, he or she, must within 3 days after leaving register in person with the new agency of jurisdiction. If any other person required to register under this Article changes his or her residence address, place of employment, telephone number, cellular telephone number, or school, he or she shall report in person, to the law enforcement agency with whom he or she last registered, his or her new address, change in employment, telephone number, cellular telephone number, or school, all new or changed e-mail addresses, all new or changed instant messaging identities, all new or changed chat room identities, and all other new or changed Internet communications identities that the sex offender uses or plans to use, all new or changed Uniform Resource Locators (URLs) registered or used by the sex offender, and all new or changed blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and register, in person, with the appropriate law enforcement agency within the time period specified in Section 3. If the sex offender is a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 or the Criminal Code of 2012, the sex offender shall within 3 days after beginning to reside in a household with a child under 18 years of age who is not his or her own child, provided that his or her own child is not the victim of the sex offense, report that information to the registering law enforcement agency. The law enforcement agency shall, within 3 days of the reporting in person by the person required to register under this Article, notify the Department of State Police of the new place of residence, change in employment, telephone number, cellular telephone number, or school.

If any person required to register under this Article intends to establish a residence or employment outside of the State of Illinois, at least 10 days before establishing that residence or employment, he or she shall report in person to the law enforcement agency with which he or she last registered of his or her out-of-state intended residence or employment. The law enforcement agency with which such person last registered shall, within 3 days after the reporting in person of the person required to register under this Article of an address or employment change, notify the Department of State Police. The Department of State Police shall forward such information to the out-of-state law enforcement agency having jurisdiction in the form and manner prescribed by the Department of State Police.

Credits

P.A. 84-1279, Art. I, § 6, eff. Aug. 15, 1986. Amended by P.A. 89-8, Art. 20, § 20-20, eff. Jan. 1, 1996; P.A. 90-193, § 15, eff. July 24, 1997; P.A. 91-48, § 5, eff. July 1, 1999; P.A. 91-394, § 5, eff. Jan. 1, 2000; P.A. 92-16, § 92, eff. June 28, 2001; P.A. 92-828, § 5, eff. Aug. 22, 2002; P.A. 93-977, § 5, eff. Aug. 20, 2004; P.A. 94-166, § 5, eff. Jan. 1, 2006; P.A. 94-168, § 5, eff. Jan. 1, 2006; P.A. 95-229, § 5, eff. Aug. 16, 2007; P.A. 95-331, § 1075, eff. Aug. 21, 2007; P.A. 95-640, § 25, eff. June 1, 2008; P.A. 95-876, § 360, eff. Aug. 21, 2008; P.A. 96-1094, § 10, eff. Jan. 1, 2011; P.A. 96-1104, § 5, eff. Jan. 1, 2011; P.A. 97-333, § 565, eff. Aug. 12, 2011; P.A. 97-1150, § 690, eff. Jan. 25, 2013.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 226.

Notes of Decisions (23)

730 I.L.C.S. 150/6, IL ST CH 730 § 150/6

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Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated

Chapter 730. Corrections

Act 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/6-5

150/6-5. Out-of-State employee or student; duty to report change

Effective: June 1, 2008

Currentness

§ 6-5. Out-of-State employee or student; duty to report change. Every out-of-state student or out-of-state employee must notify the agency having jurisdiction of any change of employment or change of educational status, in writing, within 3 days of the change. The law enforcement agency shall, within 3 days after receiving the notice, enter the appropriate changes into LEADS.

Credits

P.A. 84-1279, Art. I, § 6-5, added by P.A. 91-48, § 5, eff. July 1, 1999. Amended by P.A. 94-168, § 5, eff. Jan. 1, 2006; P.A. 95-640, § 25, eff. June 1, 2008.

730 I.L.C.S. 150/6-5, IL ST CH 730 § 150/6-5

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/7
Formerly cited as IL ST CH 38 ¶ 227

150/7. Duration of registration

Effective: July 13, 2012

Currentness

§ 7. Duration of registration. A person who has been adjudicated to be sexually dangerous and is later released or found to be no longer sexually dangerous and discharged, shall register for the period of his or her natural life. A sexually violent person or sexual predator shall register for the period of his or her natural life after conviction or adjudication if not confined to a penal institution, hospital, or other institution or facility, and if confined, for the period of his or her natural life after parole, discharge, or release from any such facility. A person who becomes subject to registration under paragraph (2.1) of subsection (c) of Section 3 of this Article who has previously been subject to registration under this Article shall register for the period currently required for the offense for which the person was previously registered if not confined to a penal institution, hospital, or other institution or facility, and if confined, for the same period after parole, discharge, or release from any such facility. Except as otherwise provided in this Section, a person who becomes subject to registration under this Article who has previously been subject to registration under this Article or under the Murderer and Violent Offender Against Youth Registration Act or similar registration requirements of other jurisdictions shall register for the period of his or her natural life if not confined to a penal institution, hospital, or other institution or facility, and if confined, for the period of his or her natural life after parole, discharge, or release from any such facility. Any other person who is required to register under this Article shall be required to register for a period of 10 years after conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility, and if confined, for a period of 10 years after parole, discharge or release from any such facility. A sex offender who is allowed to leave a county, State, or federal facility for the purposes of work release, education, or overnight visitations shall be required to register within 3 days of beginning such a program. Liability for registration terminates at the expiration of 10 years from the date of conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility and if confined, at the expiration of 10 years from the date of parole, discharge or release from any such facility, providing such person does not, during that period, again become liable to register under the provisions of this Article. Reconfinement due to a violation of parole or other circumstances that relates to the original conviction or adjudication shall extend the period of registration to 10 years after final parole, discharge, or release. Reconfinement due to a violation of parole, a conviction reviving registration, or other circumstances that do not relate to the original conviction or adjudication shall toll the running of the balance of the 10-year period of registration, which shall not commence running until after final parole, discharge, or release. The Director of State Police, consistent with administrative rules, shall extend for 10 years the registration period of any sex offender, as defined in Section 2 of this Act, who fails to comply with the provisions of this Article. The registration period for any sex offender who fails to comply with any provision of the Act shall extend the period of registration by 10 years beginning from the first date of registration after the violation. If the registration period is extended, the Department of State Police shall send a registered letter to the law enforcement agency where the sex offender resides within 3 days after the extension of the registration period. The sex offender shall report to that law enforcement agency and sign for that letter. One copy of that letter shall be kept on file with the law enforcement agency of the jurisdiction where the sex offender resides and one copy shall be returned to the Department of State Police.

Credits

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P.A. 84-1279, Art. I, § 7, eff. Aug. 15, 1986. Amended by P.A. 87-1064, § 1, eff. Jan. 1, 1993; P.A. 89-8, Art. 20, § 20-20, eff. Jan. 1, 1996; P.A. 90-193, § 15, eff. July 24, 1997; P.A. 91-48, § 5, eff. July 1, 1999; P.A. 92-828, § 5, eff. Aug. 22, 2002; P.A. 93-979, § 10, eff. Aug. 20, 2004; P.A. 94-166, § 5, eff. Jan. 1, 2006; P.A. 94-168, § 5, eff. Jan. 1, 2006; P.A. 95-169, § 5, eff. Aug. 14, 2007; P.A. 95-331, § 1075, Aug. 21, 2007; P.A. 95-513, § 5, eff. June 1, 2008; P.A. 95-640, § 25, eff. June 1, 2008; P.A. 95-876, § 360, eff. Aug. 21, 2008; P.A. 97-154, § 25, eff. Jan. 1, 2012; P.A. 97-578, § 5, eff. Jan. 1, 2012; P.A. 97-813, § 660, eff. July 13, 2012.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 227.

Notes of Decisions (13)

730 I.L.C.S. 150/7, IL ST CH 730 § 150/7

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West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 730. Corrections
Act 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/8
 Formerly cited as IL ST CH 38 ¶ 228

150/8. Registration and DNA submission requirements

Effective: January 25, 2013
Currentness

§ 8. Registration and DNA submission requirements.

(a) Registration. Registration as required by this Article shall consist of a statement in writing signed by the person giving the information that is required by the Department of State Police, which may include the fingerprints and must include a current photograph of the person, to be updated annually. If the sex offender is a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 or the Criminal Code of 2012, he or she shall sign a statement that he or she understands that according to Illinois law as a child sex offender he or she may not reside within 500 feet of a school, park, or playground. The offender may also not reside within 500 feet of a facility providing services directed exclusively toward persons under 18 years of age unless the sex offender meets specified exemptions. The registration information must include whether the person is a sex offender as defined in the Sex Offender Community Notification Law.¹ Within 3 days, the registering law enforcement agency shall forward any required information to the Department of State Police. The registering law enforcement agency shall enter the information into the Law Enforcement Agencies Data System (LEADS) as provided in Sections 6 and 7 of the Intergovernmental Missing Child Recovery Act of 1984.²

(b) DNA submission. Every person registering as a sex offender pursuant to this Act, regardless of the date of conviction or the date of initial registration who is required to submit specimens of blood, saliva, or tissue for DNA analysis as required by subsection (a) of Section 5-4-3 of the Unified Code of Corrections shall submit the specimens as required by that Section. Registered sex offenders who have previously submitted a DNA specimen which has been uploaded to the Illinois DNA database shall not be required to submit an additional specimen pursuant to this Section.

Credits

P.A. 84-1279, Art. I, § 8, eff. Aug. 15, 1986. Amended by P.A. 87-1065, § 2, eff. Sept. 13, 1992; P.A. 89-428, Art. 1, § 197, eff. June 1, 1996; P.A. 89-462, Art. 1, § 197, eff. June 1, 1996; P.A. 90-193, § 15, eff. July 24, 1997; P.A. 91-224, § 5, eff. July 1, 2000; P.A. 93-979, § 10, eff. Aug. 20, 2004; P.A. 94-166, § 5, eff. Jan. 1, 2006; P.A. 94-945, § 1025, eff. June 27, 2006; P.A. 97-383, § 10, eff. Jan. 1, 2012; P.A. 97-1150, § 690, eff. Jan. 25, 2013.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 228.

Footnotes

1 730 ILCS 152/101 et seq.

2 325 ILCS 40/6 and 40/7.

730 I.L.C.S. 150/8, IL ST CH 730 § 150/8

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West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 730. Corrections
Act 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/8-5

150/8-5. Verification requirements
 Effective: January 1, 2014
Currentness

§ 8-5. Verification requirements.

(a) Address verification. The agency having jurisdiction shall verify the address of sex offenders, as defined in Section 2 of this Act, or sexual predators required to register with their agency at least once per year. The verification must be documented in LEADS in the form and manner required by the Department of State Police.

(a-5) Internet Protocol address verification. The agency having jurisdiction may verify the Internet protocol (IP) address of sex offenders, as defined in Section 2 of this Act, who are required to register with their agency under Section 3 of this Act. A copy of any such verification must be sent to the Attorney General for entrance in the Illinois Cyber-crimes Location Database pursuant to Section 5-4-3.2 of the Unified Code of Corrections.

(b) Registration verification. The supervising officer or aftercare specialist, shall, within 15 days of sentencing to probation or release from an Illinois Department of Corrections or Illinois Department of Juvenile Justice facility or other penal institution, contact the law enforcement agency in the jurisdiction in which the sex offender or sexual predator designated as his or her intended residence and verify compliance with the requirements of this Act. Revocation proceedings shall be immediately commenced against a sex offender or sexual predator on probation, parole, aftercare release, or mandatory supervised release who fails to comply with the requirements of this Act.

(c) In an effort to ensure that sexual predators and sex offenders who fail to respond to address-verification attempts or who otherwise abscond from registration are located in a timely manner, the Department of State Police shall share information with local law enforcement agencies. The Department shall use analytical resources to assist local law enforcement agencies to determine the potential whereabouts of any sexual predator or sex offender who fails to respond to address-verification attempts or who otherwise absconds from registration. The Department shall review and analyze all available information concerning any such predator or offender who fails to respond to address-verification attempts or who otherwise absconds from registration and provide the information to local law enforcement agencies in order to assist the agencies in locating and apprehending the sexual predator or sex offender.

Credits

P.A. 84-1279, Art. I, § 8-5, added by P.A. 91-48, § 5, eff. July 1, 1999. Amended by P.A. 92-828, § 5, eff. Aug. 22, 2002; P.A. 93-979, § 10, eff. Aug. 20, 2004; P.A. 94-988, § 15, eff. Jan. 1, 2007; P.A. 95-579, § 15, eff. June 1, 2008; P.A. 98-558, § 115.

150/8-5. Verification requirements, IL ST CH 730 § 150/8-5

eff. Jan. 1, 2014.

730 I.L.C.S. 150/8-5, IL ST CH 730 § 150/8-5

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West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 730. Corrections
Act 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/9
 Formerly cited as IL ST CH 38 ¶ 229

150/9. Public inspection of registration data

Effective: June 27, 2006
Currentness

§ 9. Public inspection of registration data. Except as provided in the Sex Offender Community Notification Law,¹ the statements or any other information required by this Article shall not be open to inspection by the public, or by any person other than by a law enforcement officer or other individual as may be authorized by law and shall include law enforcement agencies of this State, any other state, or of the federal government. Similar information may be requested from any law enforcement agency of another state or of the federal government for purposes of this Act. It is a Class B misdemeanor to permit the unauthorized release of any information required by this Article.

Credits

P.A. 84-1279, Art. I, § 9, eff. Aug. 15, 1986. Amended by P.A. 88-76, § 10, eff. Jan. 1, 1994; P.A. 89-428, Art. 1, § 197, eff. June 1, 1996; P.A. 89-462, Art. 1, § 197, eff. June 1, 1996; P.A. 90-193, § 15, eff. July 24, 1997; P.A. 94-945, § 1025, eff. June 27, 2006.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 229.

Footnotes

1 730 ILCS 152/101 et seq.

730 I.L.C.S. 150/9, IL ST CH 730 § 150/9

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Chapter 730. Corrections
Act 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/10
 Formerly cited as IL ST CH 38 ¶ 230

150/10. Penalty

Effective: July 20, 2015
Currentness

§ 10. Penalty.

(a) Any person who is required to register under this Article who violates any of the provisions of this Article and any person who is required to register under this Article who seeks to change his or her name under Article XXI of the Code of Civil Procedure¹ is guilty of a Class 3 felony. Any person who is convicted for a violation of this Act for a second or subsequent time is guilty of a Class 2 felony. Any person who is required to register under this Article who knowingly or wilfully gives material information required by this Article that is false is guilty of a Class 3 felony. Any person convicted of a violation of any provision of this Article shall, in addition to any other penalty required by law, be required to serve a minimum period of 7 days confinement in the local county jail. The court shall impose a mandatory minimum fine of \$500 for failure to comply with any provision of this Article. These fines shall be deposited in the Sex Offender Registration Fund. Any sex offender, as defined in Section 2 of this Act, or sexual predator who violates any provision of this Article may be arrested and tried in any Illinois county where the sex offender can be located. The local police department or sheriff's office is not required to determine whether the person is living within its jurisdiction.

(b) Any person, not covered by privilege under Part 8 of Article VIII of the Code of Civil Procedure or the Illinois Supreme Court's Rules of Professional Conduct, who has reason to believe that a sexual predator is not complying, or has not complied, with the requirements of this Article and who, with the intent to assist the sexual predator in eluding a law enforcement agency that is seeking to find the sexual predator to question the sexual predator about, or to arrest the sexual predator for, his or her noncompliance with the requirements of this Article is guilty of a Class 3 felony if he or she:

- (1) provides false information to the law enforcement agency having jurisdiction about the sexual predator's noncompliance with the requirements of this Article, and, if known, the whereabouts of the sexual predator;
- (2) harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual predator; or
- (3) conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual predator.

(c) Subsection (b) does not apply if the sexual predator is incarcerated in or is in the custody of a State correctional facility, a private correctional facility, a county or municipal jail, a State mental health facility or a State treatment and detention facility, or a federal correctional facility.

(d) Subsections (a) and (b) do not apply if the sex offender accurately registered his or her Internet protocol address under this Act, and the address subsequently changed without his or her knowledge or intent.

Credits

P.A. 84-1279, Art. I, § 10, eff. Aug. 15, 1986. Amended by P.A. 89-8, Art. 20, § 20-20, eff. Jan. 1, 1996; P.A. 89-462, Art. 1, § 197, eff. June 1, 1996; P.A. 90-125, § 5, eff. Jan. 1, 1998; P.A. 90-193, § 15, eff. July 24, 1997; P.A. 90-655, § 164, eff. July 30, 1998; P.A. 91-48, § 5, eff. July 1, 1999; P.A. 91-221, § 5, eff. July 22, 1999; P.A. 92-16, § 92, eff. June 28, 2001; P.A. 92-828, § 5, eff. Aug. 22, 2002; P.A. 93-979, § 10, eff. Aug. 20, 2004; P.A. 94-168, § 5, eff. Jan. 1, 2006; P.A. 94-988, § 15, eff. Jan. 1, 2007; P.A. 95-579, § 15, eff. June 1, 2008; P.A. 99-78, § 525, eff. July 20, 2015.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 230.

Notes of Decisions (20)

Footnotes

1 735 ILCS 5/21-101 et seq.

730 I.L.C.S. 150/10, IL ST CH 730 § 150/10

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Chapter 730. Corrections
Act 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/10.9

150/10.9. Severability
Currentness

§ 10.9. Severability. If a provision or application of this Article is held to be invalid with respect to any person or class of persons, that invalidity does not affect other persons or classes of persons whose registration obligations can be given effect without the invalid provision or application. To this end an invalid provision or application of this Article is declared to be severable.

Credits

P.A. 84-1279, Art. I, § 10.9, added by P.A. 89-8, Art. 20, § 20-20, eff. Jan. 1, 1996.

730 I.L.C.S. 150/10.9, IL ST CH 730 § 150/10.9

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West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 730. Corrections
Act 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/11

150/11. Sex offender registration fund
Effective: August 20, 2004
Currentness

§ 11. Sex offender registration fund. There is created the Sex Offender Registration Fund. Moneys in the Fund shall be used to cover costs incurred by the criminal justice system to administer this Article. The Department of State Police shall establish and promulgate rules and procedures regarding the administration of this Fund. Fifty percent of the moneys in the Fund shall be allocated by the Department for sheriffs' offices and police departments. The remaining moneys in the Fund shall be allocated to the Illinois State Police Sex Offender Registration Unit for education and administration of the Act.

Credits

P.A. 84-1279, Art. I, § 11, added by P.A. 90-193, § 15, eff. July 24, 1997. Amended by P.A. 93-979, § 10, eff. Aug. 20, 2004.

730 I.L.C.S. 150/11, IL ST CH 730 § 150/11

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 150. Sex Offender Registration Act (Refs & Annos)

730 ILCS 150/12

150/12. Access to State of Illinois databases

Effective: June 23, 2006

Currentness

§ 12. Access to State of Illinois databases. The Department of State Police shall have access to State of Illinois databases containing information that may help in the identification or location of persons required to register under this Article, including, but not limited to, information obtained in the course of administering the Unemployment Insurance Act. Interagency agreements shall be implemented, consistent with security and procedures established by the State agency and consistent with the laws governing the confidentiality of the information in the databases. Information shall be used only for administration of this Article.

Credits

P.A. 84-1279, Art. I, § 12, added by P.A. 90-193, § 15, eff. July 24, 1997. Amended by P.A. 94-911, § 5, eff. June 23, 2006.

730 I.L.C.S. 150/12, IL ST CH 730 § 150/12

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 152. Sex Offender Community Notification Law (Refs & Annos)

730 ILCS 152/101

152/101. Short title
 Effective: June 27, 2006
Currentness

§ 101. Short title. This Article may be cited as the Sex Offender Community Notification Law.

Credits

P.A. 89-428, Art. 1, § 101, eff. June 1, 1996; P.A. 89-462, Art. 1, § 101, eff. June 1, 1996. Amended by P.A. 90-193, § 20, eff. July 24, 1997; P.A. 94-945, § 1030, eff. June 27, 2006.

Notes of Decisions (25)

730 I.L.C.S. 152/101, IL ST CH 730 § 152/101

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 152. Sex Offender Community Notification Law (Refs & Annos)

730 ILCS 152/105

152/105. Definitions

Effective: August 22, 2002

Currentness

§ 105. Definitions. As used in this Article, the following definitions apply:

“Child care facilities” has the meaning set forth in the Child Care Act of 1969,¹ but does not include licensed foster homes.

“Law enforcement agency having jurisdiction” means the Chief of Police in the municipality in which the sex offender expects to reside (1) upon his or her discharge, parole or release or (2) during the service of his or her sentence of probation or conditional discharge, or the Sheriff of the county, in the event no Police Chief exists or if the offender intends to reside in an unincorporated area. “Law enforcement agency having jurisdiction” includes the location where out-of-state students attend school and where out-of-state employees are employed or are otherwise required to register.

“Sex offender” means any sex offender as defined in the Sex Offender Registration Act,² whose offense or adjudication as a sexually dangerous person occurred on or after June 1, 1996, and whose victim was under the age of 18 at the time the offense was committed but does not include the offenses set forth in subsection (b)(1.5) of Section 2 of that Act; and any sex offender as defined in the Sex Offender Registration Act whose offense or adjudication as a sexually dangerous person occurred on or after June 1, 1997, and whose victim was 18 years of age or older at the time the offense was committed but does not include the offenses set forth in subsection (b)(1.5) of Section 2 of that Act.

“Sex offender” also means any sex offender as defined in the Sex Offender Registration Act whose offense or adjudication as a sexually dangerous person occurred before June 1, 1996, and whose victim was under the age of 18 at the time the offense was committed but does not include the offenses set forth in subsection (b)(1.5) of Section 2 of that Act; and any sex offender as defined in the Sex Offender Registration Act whose offense or adjudication as a sexually dangerous person occurred before June 1, 1997, and whose victim was 18 years of age or older at the time the offense was committed but does not include the offenses set forth in subsection (b)(1.5) of Section 2 of that Act.

“Juvenile sex offender” means any person who is adjudicated a juvenile delinquent as the result of the commission of or attempt to commit a violation set forth in item (B), (C), or (C-5) of Section 2 of the Sex Offender Registration Act,³ or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, and whose adjudication occurred on or after the effective date of this amendatory Act of the 91st General Assembly.

Credits

P.A. 89-428, Art. 1, § 105, eff. June 1, 1996; P.A. 89-462, Art. 1, § 105, eff. June 1, 1996. Amended by P.A. 90-193, § 20, eff. July 24, 1997; P.A. 91-48, § 10, eff. July 1, 1999; P.A. 92-828, § 10, eff. Aug. 22, 2002.

Notes of Decisions (2)

Footnotes

1 225 ILCS 10/1 et seq.

2 730 ILCS 150/1 et seq.

3 730 ILCS 150/2.

730 I.L.C.S. 152/105, IL ST CH 730 § 152/105

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KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated

Chapter 730. Corrections

Act 152. Sex Offender Community Notification Law (Refs & Annos)

730 ILCS 152/110

152/110. Registration

Effective: January 1, 2000

Currentness

§ 110. Registration. At the time a sex offender registers under Section 3 of the Sex Offender Registration Act¹ or reports a change of address or employment under Section 6 of that Act, the offender shall notify the law enforcement agency having jurisdiction with whom the offender registers or reports a change of address or employment that the offender is a sex offender.

Credits

P.A. 89-428, Art. 1, § 110, eff. June 1, 1996; P.A. 89-462, Art. 1, § 110, eff. June 1, 1996. Amended by P.A. 90-193, § 20, eff. July 24, 1997; P.A. 91-394, § 10, eff. Jan. 1, 2000.

Notes of Decisions (4)

Footnotes

1 730 ILCS 150/3.

730 I.L.C.S. 152/110, IL ST CH 730 § 152/110

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 152. Sex Offender Community Notification Law (Refs & Annos)

730 ILCS 152/115

152/115. Sex offender database

Effective: January 1, 2007

Currentness

§ 115. Sex offender database.

(a) The Department of State Police shall establish and maintain a Statewide Sex Offender Database for the purpose of identifying sex offenders and making that information available to the persons specified in Sections 120 and 125 of this Law. The Database shall be created from the Law Enforcement Agencies Data System (LEADS) established under Section 6 of the Intergovernmental Missing Child Recovery Act of 1984.¹ The Department of State Police shall examine its LEADS database for persons registered as sex offenders under the Sex Offender Registration Act² and shall identify those who are sex offenders and shall add all the information, including photographs if available, on those sex offenders to the Statewide Sex Offender Database.

(b) The Department of State Police must make the information contained in the Statewide Sex Offender Database accessible on the Internet by means of a hyperlink labeled "Sex Offender Information" on the Department's World Wide Web home page. The Department must make the information contained in the Statewide Sex Offender Database searchable via a mapping system which identifies registered sex offenders living within 5 miles of an identified address. The Department of State Police must update that information as it deems necessary.

The Department of State Police may require that a person who seeks access to the sex offender information submit biographical information about himself or herself before permitting access to the sex offender information. The Department of State Police must promulgate rules in accordance with the Illinois Administrative Procedure Act³ to implement this subsection (b) and those rules must include procedures to ensure that the information in the database is accurate.

(c) The Department of State Police, Sex Offender Registration Unit, must develop and conduct training to educate all those entities involved in the Sex Offender Registration Program.

Credits

P.A. 89-428, Art. 1, § 115, eff. June 1, 1996; P.A. 89-462, Art. 1, § 115, eff. June 1, 1996. Amended by P.A. 90-193, § 20, eff. July 24, 1997; P.A. 91-224, § 10, eff. July 1, 2000; P.A. 93-979, § 15, eff. Aug. 20, 2004; P.A. 94-994, § 10, eff. Jan. 1, 2007.

Notes of Decisions (15)

Footnotes

1 325 ILCS 40/6.

2 730 ILCS 150/1 et seq.

3 5 ILCS 100/1-1 et seq.

730 I.L.C.S. 152/115, IL ST CH 730 § 152/115

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 152. Sex Offender Community Notification Law (Refs & Annos)

730 ILCS 152/116

152/116. Missing Sex Offender Database

Effective: August 15, 2014

Currentness

§ 116. Missing Sex Offender Database.

(a) The Department of State Police shall establish and maintain a Statewide Missing Sex Offender Database for the purpose of identifying missing sex offenders and making that information available to the persons specified in Sections 120 and 125 of this Law. The Database shall be created from the Law Enforcement Agencies Data System (LEADS) established under Section 6 of the Intergovernmental Missing Child Recovery Act of 1984. The Department of State Police shall examine its LEADS database for persons registered as sex offenders under the Sex Offender Registration Act and shall identify those who are sex offenders and who have not complied with the provisions of Section 6 of that Act or whose address can not be verified under Section 8-5 of that Act and shall add all the information, including photographs if available, on those missing sex offenders to the Statewide Sex Offender Database.

(b) The Department of State Police must make the information contained in the Statewide Missing Sex Offender Database accessible on the Internet by means of a hyperlink labeled "Missing Sex Offender Information" on the Department's World Wide Web home page and on the Attorney General's I-SORT page. The Department of State Police must update that information as it deems necessary. The Internet page shall also include information that rewards may be available to persons who inform the Department of State Police or a local law enforcement agency of the whereabouts of a missing sex offender.

The Department of State Police may require that a person who seeks access to the missing sex offender information submit biographical information about himself or herself before permitting access to the missing sex offender information. The Department of State Police must promulgate rules in accordance with the Illinois Administrative Procedure Act to implement this subsection (b) and those rules must include procedures to ensure that the information in the database is accurate.

(c) The Department of State Police, Sex Offender Registration Unit, must develop and conduct training to educate all those entities involved in the Missing Sex Offender Registration Program.

Credits

P.A. 89-428, Art. 1, § 116, added by P.A. 95-817, § 5, eff. Aug. 14, 2008. Amended by P.A. 98-921, § 5, eff. Aug. 15, 2014.

730 I.L.C.S. 152/116, IL ST CH 730 § 152/116

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 152. Sex Offender Community Notification Law (Refs & Annos)

730 ILCS 152/117

152/117. Promulgation of rules

Effective: August 22, 2002

Currentness

§ 117. The Department of State Police shall promulgate rules to develop a list of sex offenders covered by this Act and a list of child care facilities, schools, and institutions of higher education eligible to receive notice under this Act, so that the list can be disseminated in a timely manner to law enforcement agencies having jurisdiction.

Credits

P.A. 89-428, Art. 1, § 117, eff. June 1, 1996; P.A. 89-462, Art. 1, § 117, eff. June 1, 1996. Amended by P.A. 90-193, § 20, eff. July 24, 1997; P.A. 92-828, § 10, eff. Aug. 22, 2002.

730 I.L.C.S. 152/117, IL ST CH 730 § 152/117

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Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated

Chapter 730. Corrections

Act 152. Sex Offender Community Notification Law (Refs & Annos)

730 ILCS 152/120

152/120. Community notification of sex offenders.

Effective: January 1, 2009

Currentness

§ 120. Community notification of sex offenders.

(a) The sheriff of the county, except Cook County, shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:!

(1) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the county where the sex offender is required to register, resides, is employed, or is attending an institution of higher education;

(2) School boards of public school districts and the principal or other appropriate administrative officer of each nonpublic school located in the county where the sex offender is required to register or is employed;

(3) Child care facilities located in the county where the sex offender is required to register or is employed;

(4) Libraries located in the county where the sex offender is required to register or is employed;

(5) Public libraries located in the county where the sex offender is required to register or is employed;

(6) Public housing agencies located in the county where the sex offender is required to register or is employed;

(7) The Illinois Department of Children and Family Services;

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(8) Social service agencies providing services to minors located in the county where the sex offender is required to register or is employed;

(9) Volunteer organizations providing services to minors located in the county where the sex offender is required to register or is employed; and

(10) A victim of a sex offense residing in the county where the sex offender is required to register or is employed, who is not otherwise required to be notified under Section 4.5 of the Rights of Crime Victims and Witnesses Act or Section 75 of the Sexually Violent Persons Commitment Act.

(a-2) The sheriff of Cook County shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) School boards of public school districts and the principal or other appropriate administrative officer of each nonpublic school located within the region of Cook County, as those public school districts and nonpublic schools are identified in LEADS, other than the City of Chicago, where the sex offender is required to register or is employed;

(2) Child care facilities located within the region of Cook County, as those child care facilities are identified in LEADS, other than the City of Chicago, where the sex offender is required to register or is employed;

(3) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(4) Libraries located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or is attending an institution of higher education;

(5) Public libraries located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(6) Public housing agencies located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(7) The Illinois Department of Children and Family Services;

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(8) Social service agencies providing services to minors located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(9) Volunteer organizations providing services to minors located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education; and

(10) A victim of a sex offense residing in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attends an institution of higher education, who is not otherwise required to be notified under Section 4.5 of the Rights of Crime Victims and Witnesses Act or Section 75 of the Sexually Violent Persons Commitment Act.

(a-3) The Chicago Police Department shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) School boards of public school districts and the principal or other appropriate administrative officer of each nonpublic school located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago;

(2) Child care facilities located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago;

(3) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

(4) Libraries located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago;

(5) Public libraries located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

(6) Public housing agencies located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

(7) The Illinois Department of Children and Family Services;

(8) Social service agencies providing services to minors located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

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(9) Volunteer organizations providing services to minors located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago; and

(10) A victim of a sex offense residing in the police district where the sex offender is required to register, resides, is employed, or attends an institution of higher education in the City of Chicago, who is not otherwise required to be notified under Section 4.5 of the Rights of Crime Victims and Witnesses Act or Section 75 of the Sexually Violent Persons Commitment Act.

(a-4) The Department of State Police shall provide a list of sex offenders required to register to the Illinois Department of Children and Family Services.

(b) The Department of State Police and any law enforcement agency may disclose, in the Department's or agency's discretion, the following information to any person likely to encounter a sex offender, or sexual predator:

(1) The offender's name, address, date of birth, e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, and all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information.

(2) The offense for which the offender was convicted.

(3) Adjudication as a sexually dangerous person.

(4) The offender's photograph or other such information that will help identify the sex offender.

(5) Offender employment information, to protect public safety.

(c) The name, address, date of birth, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, offense or adjudication, the county of conviction, license plate numbers for every vehicle registered in the name of the sex offender, the age of the sex offender at the time of the commission of the offense, the age of the victim at the time of the commission of the offense, and any distinguishing marks located on the body of the sex offender for sex offenders required to register under Section 3 of the Sex Offender Registration Act shall be open to inspection by the public as provided in this Section. Every municipal police department shall make available at its headquarters the information on all sex offenders who are required to register in the municipality under the Sex Offender Registration Act. The sheriff shall also make available at his or her headquarters the information on all sex offenders who are required to register under that Act and who live in unincorporated areas of the county. Sex offender information must be made available for public inspection to any person, no later than 72 hours or 3 business days from the date of the request. The request must be made in person, in writing, or by telephone. Availability must include giving the inquirer access to a facility where the information may be copied. A department or sheriff may charge a fee, but the fee may not exceed the actual costs of copying the information. An inquirer must be allowed to copy

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this information in his or her own handwriting. A department or sheriff must allow access to the information during normal public working hours. The sheriff or a municipal police department may publish the photographs of sex offenders where any victim was 13 years of age or younger and who are required to register in the municipality or county under the Sex Offender Registration Act in a newspaper or magazine of general circulation in the municipality or county or may disseminate the photographs of those sex offenders on the Internet or on television. The law enforcement agency may make available the information on all sex offenders residing within any county.

(d) The Department of State Police and any law enforcement agency having jurisdiction may, in the Department's or agency's discretion, place the information specified in subsection (b) on the Internet or in other media.

(e) (Blank).

(f) The administrator of a transitional housing facility for sex offenders shall comply with the notification procedures established in paragraph (4) of subsection (b) of Section 3-17-5 of the Unified Code of Corrections.

(g) A principal or teacher of a public or private elementary or secondary school shall notify the parents of children attending the school during school registration or during parent-teacher conferences that information about sex offenders is available to the public as provided in this Act.

(h) In order to receive notice under paragraph (10) of subsection (a), paragraph (10) of subsection (a-2), or paragraph (10) of subsection (a-3), the victim of the sex offense must notify the appropriate sheriff or the Chicago Police Department in writing, by facsimile transmission, or by e-mail that the victim desires to receive such notice.

(i) For purposes of this Section, "victim of a sex offense" means:

(1) the victim of the sex offense; or

(2) a single representative who may be the spouse, parent, child, or sibling of a person killed during the course of a sex offense perpetrated against the person killed or the spouse, parent, child, or sibling of any victim of a sex offense who is physically or mentally incapable of comprehending or requesting notice.

Credits

P.A. 89-428, Art. 1, § 120, eff. June 1, 1996; P.A. 89-462, Art. 1, § 120, eff. June 1, 1996. Amended by P.A. 89-707, § 20, eff. June 1, 1997; P.A. 90-193, § 20, eff. July 24, 1997; P.A. 91-48, § 10, eff. July 1, 1999; P.A. 91-221, § 10, eff. July 22, 1999; P.A. 91-224, § 10, eff. July 1, 2000; P.A. 91-357, § 249, eff. July 29, 1999; P.A. 91-394, § 10, eff. Jan. 1, 2000; P.A. 92-16, § 93, eff. June 28, 2001; P.A. 92-828, § 10, eff. Aug. 22, 2002; P.A. 94-161, § 15, eff. July 11, 2005; P.A. 94-168, § 10, eff. Jan. 1, 2006; P.A. 94-994, § 10, eff. Jan. 1, 2007; P.A. 95-229, § 10, eff. Aug. 16, 2007; P.A. 95-278, § 5, eff. Aug. 17, 2007; P.A. 95-640, § 30, eff. June 1, 2008; P.A. 95-876, § 365, eff. Aug. 21, 2008; P.A. 95-896, § 15, eff. Jan. 1, 2009.

Notes of Decisions (21)

Footnotes

1 730 ILCS 150/3.

2 730 ILCS 150/1 et seq.

730 I.L.C.S. 152/120, IL ST CH 730 § 152/120

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 152. Sex Offender Community Notification Law (Refs & Annos)

730 ILCS 152/121

152/121. Notification regarding juvenile offenders

Effective: August 21, 2007

Currentness

§ 121. Notification regarding juvenile offenders.

(a) The Department of State Police and any law enforcement agency having jurisdiction may, in the Department's or agency's discretion, only provide the information specified in subsection (b) of Section 120 of this Act, with respect to an adjudicated juvenile delinquent, to any person when that person's safety may be compromised for some reason related to the juvenile sex offender.

(b) The local law enforcement agency having jurisdiction to register the juvenile sex offender shall ascertain from the juvenile sex offender whether the juvenile sex offender is enrolled in school; and if so, shall provide a copy of the sex offender registration form only to the principal or chief administrative officer of the school and any guidance counselor designated by him or her. The registration form shall be kept separately from any and all school records maintained on behalf of the juvenile sex offender.

Credits

P.A. 89-428, § 121, added by P.A. 94-168, § 10, eff. Jan. 1, 2006. Amended by P.A. 95-331, § 1080, eff. Aug. 21, 2007.

Notes of Decisions (5)

730 I.L.C.S. 152/121, IL ST CH 730 § 152/121

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 152. Sex Offender Community Notification Law (Refs & Annos)

730 ILCS 152/122

152/122. Special alerts
Effective: August 21, 2007
Currentness

§ 122. Special alerts. A law enforcement agency having jurisdiction may provide to the public a special alert list warning parents to be aware that sex offenders may attempt to contact children during holidays involving children, such as Halloween, Christmas, and Easter and to inform parents that information containing the names and addresses of registered sex offenders are accessible on the Internet by means of a hyperlink labeled "Sex Offender Information" on the Department of State Police's World Wide Web home page and are available for public inspection at the agency's headquarters.

Credits

P.A. 89-428, § 121, added by P.A. 94-159, § 10, eff. July 11, 2005. Renumbered as § 122 by P.A. 95-331, § 1080, eff. Aug. 21, 2007.

730 I.L.C.S. 152/122, IL ST CH 730 § 152/122

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 152. Sex Offender Community Notification Law (Refs & Annos)

730 ILCS 152/130

152/130. Immunity
Currentness

§ 130. Immunity. Notwithstanding any other provision of law to the contrary, any person who provides or fails to provide information relevant to the procedures set forth in this Law shall not be liable in any civil or criminal action. This immunity extends to the secondary release of any of this information legally obtained in conjunction with procedures set forth in this Law.

Credits

P.A. 89-428, Art. 1, § 130, eff. June 1, 1996; P.A. 89-462, Art. 1, § 130, eff. June 1, 1996. Amended by P.A. 89-707, § 20, eff. June 1, 1997.

730 I.L.C.S. 152/130, IL ST CH 730 § 152/130

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 152. Sex Offender Community Notification Law (Refs & Annos)

730 ILCS 152/905

152/905. Severability
Currentness

§ 905. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.¹

Credits

P.A. 89-428, Art. 9, § 905, eff. Dec. 13, 1995; P.A. 89-462, Art. 4, § 405, eff. May 29, 1996. Combined and renumbered § 905 and amended by P.A. 90-14, Art. 2, § 2-260, eff. July 1, 1997.

Footnotes

1 5 ILCS 70/1.31.

730 I.L.C.S. 152/905, IL ST CH 730 § 152/905

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West's Smith-Hurd Illinois Compiled Statutes AnnotatedChapter 730. CorrectionsAct 152. Sex Offender Community Notification Law (Refs & Annos)

730 ILCS 152/999

152/999. Effective date
Currentness

§ 999. Effective date. This Act takes effect upon becoming law, except that Article 1 takes effect June 1, 1996 and Article 3 takes effect January 1, 1996.

Credits

P.A. 89-428, Art. 9, § 999, eff. Dec. 13, 1995; P.A. 89-462, Art. 9, § 999, eff. May 29, 1996.

730 I.L.C.S. 152/999, IL ST CH 730 § 152/999

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Illinois' Sex Offender Registration and Notification Scheme attempt criminal sexual assault		
	1998 (<i>Malchow</i>)	2017 (<i>Bingham</i>)
Classification (730 ILCS 150/2(A), (E))	sex offender	sexual predator
Method of registration (730 ILCS 150/3, 150/6)	initial registration: in person renewal: in person, annually	initial registration: in person renewal with fixed address: in person, annually "and at such other times at the request of the law enforcement agency not to exceed 4 times a year" renewal without fixed address: weekly
Registration fees (730 ILCS 150/3(c)(6))	initial registration: \$10 annual renewal: \$5	initial registration: \$100 annual renewal: \$100
Duration of registration requirement (730 ILCS 150/7)	10 years, if convicted of a qualifying sex offense on or after January 1, 1996	natural life, if ever convicted of a qualifying sex offense and if convicted of any felony offense on or after July 1, 2011
Penalties for violation, giving false information, or seeking to change name (730 ILCS 150/10)	<ul style="list-style-type: none"> • Class 4 felony • min. 7 days' jail • min. \$500 fine 	<ul style="list-style-type: none"> • Class 2 or 3 felony • min. 7 days' jail • min. \$500 fine

Illinois' Sex Offender Registration and Notification Scheme attempt criminal sexual assault		
	1998 (<i>Malchow</i>)	2017 (<i>Bingham</i>)
Change of address (730 ILCS 150/6)	written notice to law enforcement agency of most recent registration within 10 days of move to new residence	In-person notification within 3 days of change with the same law enforcement agency with which previously registered about new residence address, place of employment, telephone number, cellular telephone number, school, new or changed e-mail addresses, instant messaging identities, all new or changed Internet communications identities that sex offender uses or plans to use, all new or changed Uniform Resource Locators (URLs) registered or used by sex offender, and all new or changed blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information
Temporary absence from residence (730 ILCS 150/3)	In-person notification within 10 days of establishing temporary domicile	In-person notification and travel itinerary for temporary absence of 3 or more days

Illinois' Sex Offender Registration and Notification Scheme attempt criminal sexual assault		
	1998 (<i>Malchow</i>)	2017 (<i>Bingham</i>)
Presence in public parks (720 ILCS 5/11-9.4-1)		sexual predator who is knowingly present in or on any public park building, public way, or real property comprising a park is committing a Class A misdemeanor
Driver's license restrictions (730 ILCS 5/5-5-3(o))		annual renewal

Illinois' Sex Offender Registration and Notification Scheme attempt criminal sexual assault		
	1998 (<i>Malchow</i>)	2017 (<i>Bingham</i>)
Location of initial registration-Illinois residents (730 ILCS 150/3(a))	<ul style="list-style-type: none"> • chief of police of municipality where reside or temporarily domiciled for 10 or more days; • Chicago Police Department Headquarters, if reside in City of Chicago; • county sheriff if reside or temporarily domiciled for more than 10 days in an unincorporated area or incorporated but no police chief exists 	<ul style="list-style-type: none"> • chiefs of police of municipalities where employed, attending school, and/or residing or temporarily domiciled for 3 or more days; • fixed location designated by Superintendent of Chicago Police Department, if employed, attending school, and/or residing or temporarily domiciled for 3 or more days in City of Chicago; • county sheriff if employed, attending school, and/or residing or temporarily domiciled for 3 or more days in an unincorporated area or incorporated but no police chief exists;

Illinois' Sex Offender Registration and Notification Scheme attempt criminal sexual assault		
	1998 (<i>Malchow</i>)	2017 (<i>Bingham</i>)
Location of initial registration-out-of-state students and employees (730 ILCS 150/3(a-5))	<ul style="list-style-type: none"> • chief of police of municipality where employed or attends school for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, unless the municipality is the City of Chicago, in which case register at Chicago Police Department Headquarters; • county sheriff where employed or attends school for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, in an unincorporated area or incorporated but no police chief exists 	<ul style="list-style-type: none"> • chief of police of municipalities where employed, attending school, and/or residing or temporarily domiciled for 3 or more days; • fixed location designated by Superintendent of Chicago Police Department, if employed, attending school, and/or residing or temporarily domiciled for 3 or more days in City of Chicago; • county sheriff if employed, attending school, and/or residing or temporarily domiciled for 3 or more days in an unincorporated area or incorporated but no police chief exists;

Illinois' Sex Offender Registration and Notification Scheme attempt criminal sexual assault		
	1998 (<i>Malchow</i>)	2017 (<i>Bingham</i>)
Required information (730 ILCS 150/3(a), (c)(5))	<ul style="list-style-type: none"> • place of employment • identification • proof of residence at registering address 	<ul style="list-style-type: none"> • current photograph • current address • current place of employment • sex offender's telephone number(s) • employer's telephone number(s) • school attended • all e-mail addresses, instant messaging identities, chat room identities, and other Internet communication identities that the sex offender uses or plans to use • all Uniform Resource Locators (URLs) registered or used by the sex offender • all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information

Illinois' Sex Offender Registration and Notification Scheme attempt criminal sexual assault		
	1998 (<i>Malchow</i>)	2017 (<i>Bingham</i>)
Required information (730 ILCS 150/3(a), (c)(5)) (continued)		<ul style="list-style-type: none"> • extensions of the time period for registering under SORA and, if granted, the reason and date of notification • a copy of the terms and conditions or parole or release signed by the sex offender and given to him or her by the supervising officer or aftercare specialist • county of conviction • license plate numbers for every vehicle registered in the sex offender's name • sex offender's age at the time of the offense • victim's age at the time of the offense • any distinguishing marks on the sex offender's body •

Illinois' Sex Offender Registration and Notification Scheme attempt criminal sexual assault		
	1998 (<i>Malchow</i>)	2017 (<i>Bingham</i>)
Public Inspection of registration data (730 ILCS 150/9 and 730 ILCS 152/120)	<ul style="list-style-type: none"> Department of State Police shall create and maintain a database from the LEADS system 	<ul style="list-style-type: none"> Department of State Police shall create and maintain a database from the LEADS system Department of State Police must make the information contained in the Statewide Sex Offender Database accessible on the internet and searchable via a mapping system that identifies registered sex offenders living within 5 miles of identified address

Illinois' Sex Offender Registration and Notification Scheme attempt criminal sexual assault		
	1998 (<i>Malchow</i>)	2017 (<i>Bingham</i>)
Public Inspection of registration data (730 ILCS 150/9 and 730 ILCS 152/120) (continued)	<ul style="list-style-type: none"> • Sheriff or Chicago Police Department shall disclose the name, address, and date of birth of all sex offenders required to register • Information shall be disclosed to public school boards and private school principals in county where sex offender resides; child care facilities in county where sex offender resides • The above-listed information may be disclosed to any person likely to encounter a sex offender required to register • Name, address, date or birth, and offense for sex offenders required to register shall be open to inspection by the public at municipal police department headquarters and sheriffs' headquarters by 	<ul style="list-style-type: none"> • Sheriff or Chicago Police Department shall disclose the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense • The above-listed information shall be disclosed to the administration of institution of higher education in the county where the sex offender is required to register, resides, is employed, or is attending an institution of higher learning;

Illinois' Sex Offender Registration and Notification Scheme attempt criminal sexual assault		
	1998 (<i>Malchow</i>)	2017 (<i>Bingham</i>)
Public Inspection of registration data (730 ILCS 150/9 and 730 ILCS 152/120) (continued)		<ul style="list-style-type: none"> the Illinois Department of Children and Family Services, and public school boards, private school principals, child care facilities, libraries, public housing agencies, social service agencies and volunteer organizations providing service to minors, and a victim of a sex offense residing in a county where sex offender is required to register or is employed; The above-listed information may be disclosed to any person likely to encounter a sex offender required to register

Illinois' Sex Offender Registration and Notification Scheme attempt criminal sexual assault		
	1998 (<i>Malchow</i>)	2017 (<i>Bingham</i>)
Public Inspection of registration data (730 ILCS 150/9 and 730 ILCS 152/120) (continued)		<ul style="list-style-type: none"> The Department of State Police and any law enforcement agency may place the following information on the Internet or in other media, and disclose to any person likely to encounter a sex offender or sexual predator: The offender's name, address, date of birth, e-mail addresses, chat room identities, and other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, the offense for which the offender was convicted, photograph or other identifying information, employment information,

Illinois' Sex Offender Registration and Notification Scheme attempt criminal sexual assault		
	1998 (<i>Malchow</i>)	2017 (<i>Bingham</i>)
Public Inspection of registration data (730 ILCS 150/9 and 730 ILCS 152/120) (continued)		<ul style="list-style-type: none"> • for every vehicle registered in the offender's name, victim's age at time of offense, and any distinguishing marks on the offender's body • Principal or teacher of elementary and secondary school shall notify parents of children attending during the school during school registration or during parent-teacher conferences that information about sex offenders is available to the public as specified within this Act.

Alaska statutory scheme compared to historic Illinois statutory scheme		
	Alaska (<i>Smith v. Doe</i>)	Illinois (<i>People v. Malchow</i>)
Method of registration for those convicted of single, non-aggravated sex offense	initial registration: in writing renewal: in writing, annually AK ST § 12.63.010(d)(1)	initial registration: in person renewal: in person, annually 730 ILCS 150/3, 150/6
Duration of registration requirement for a single sex offense that is not aggravated	15 years AK ST § 12.63.020	10 years 730 ILCS 150/7
Change of address	written notice to law enforcement located closest to the new address or, if out of state, to central registry, by the next working day after the change AK ST § 12.63.010(c)	written notice to law enforcement agency of most recent registration within 10 days of move to new residence 730 ILCS 150/6
Criminal penalties	Class A misdemeanor AK ST § 11.56.835(d)	<ul style="list-style-type: none"> • Class 4 felony • min. 7 days' jail • min. \$500 fine 730 ILCS 150/10

Alaska statutory scheme compared to historic Illinois statutory scheme		
	Alaska (<i>Smith v. Doe</i>)	Illinois (<i>People v. Malchow</i>)
Required information	<ul style="list-style-type: none"> • place of employment • name • address • date of birth • name of and details about sex offense • aliases • driver's license number • description, license numbers, and VINs of all motor vehicles to which sex offender has access • identifying features • anticipated changes of address • e-mail address, instant messaging address, and other Internet communication identifier used by sex offender • photograph • fingerprints 	<ul style="list-style-type: none"> • place of employment • identification • proof of residence at registering address
	AK ST § 12.63.010	730 ILCS 150/3(a), (c)(5)

Alaska statutory scheme compared to historic Illinois statutory scheme		
	Alaska (<i>Smith v. Doe</i>)	Illinois (<i>People v. Malchow</i>)
Public Inspection of registration data (730 ILCS 150/9 and 730 ILCS 152/120)	<ul style="list-style-type: none"> • Department of Public Safety shall maintain a central registry of sex offenders and child kidnappers • Information contained in the registry is confidential and not subject to public disclosure except the sex offender or child kidnapper's name, aliases, address, photograph, physical description, place of employment, date of birth, and details about crime for which convicted • Notwithstanding confidentiality, Internet website shall provide information as to how public may access or compile information about sex offenders or child kidnappers for a particular geographic area on a map, and may link to mapping programs 	<ul style="list-style-type: none"> • Department of State Police shall create and maintain a database from the LEADS system • Sheriff or Chicago Police Department shall disclose the name, address, and date of birth of all sex offenders required to register • Information shall be disclosed to public school boards and private school principals in county where sex offender resides; child care facilities in county where sex offender resides • The above-listed information may be disclosed to any person likely to encounter a sex offender required to register
	AK ST § 18.65.087	730 ILCS 150/9 and 730 ILCS 152/120

Alaska statutory scheme compared to historic Illinois statutory scheme		
	Alaska (<i>Smith v. Doe</i>)	Illinois (<i>People v. Malchow</i>)
Public Inspection of registration data		<ul style="list-style-type: none"> Name, address, date or birth, and offense for sex offenders required to register shall be open to inspection by the public at municipal police department headquarters and sheriffs' headquarters by request <p>730 ILCS 150/9 and 730 ILCS 152/120</p>

Alaska statutory scheme compared to updated Illinois statutory scheme		
	Alaska (<i>Smith v. Doe</i>)	Illinois (<i>People v. Bingham</i>)
Method of registration for those convicted of single, non-aggravated sex offense	<p>initial registration: in writing</p> <p>renewal: in writing, annually</p> <p>AK ST § 12.63.010(d)(1)</p>	<p>initial registration: in person</p> <p>renewal with fixed address: in person, annually “and at such other times at the request of the law enforcement agency not to exceed 4 times a year”</p> <p>renewal without fixed address: weekly</p> <p>730 ILCS 150/3, 150/6</p>
Duration of registration requirement for a single sex offense that is not aggravated	<p>15 years</p> <p>AK ST § 12.63.020</p>	<p>natural life, if ever convicted of a qualifying sex offense and if convicted of any felony offense on or after July 1, 2011</p> <p>730 ILCS 150/7</p>

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Alaska statutory scheme compared to updated Illinois statutory scheme		
	Alaska (<i>Smith v. Doe</i>)	Illinois (<i>People v. Bingham</i>)
Required information	<ul style="list-style-type: none"> • place of employment • name • address • date of birth • name of and details about sex offense • aliases • driver's license number • description, license numbers, and VINs of all motor vehicles to which sex offender has access • identifying features • anticipated changes of address • e-mail address, instant messaging address, and other Internet communication identifier used by sex offender • photograph • fingerprints <p>AK ST § 12.63.010</p>	<ul style="list-style-type: none"> • current photograph • current address • current place of employment • sex offender's telephone number(s) • employer's telephone number(s) • school attended • all e-mail addresses, instant messaging identities, chat room identities, and other Internet communication identities that the sex offender uses or plans to use • all Uniform Resource Locators (URLs) registered or used by the sex offender • all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information • extensions of the time period for registering under SORA and, if

Alaska statutory scheme compared to updated Illinois statutory scheme		
	Alaska (<i>Smith v. Doe</i>)	Illinois (<i>People v. Bingham</i>)
Required information, <i>continued</i>		<ul style="list-style-type: none"> • a copy of the terms and conditions or parole or release signed by the sex offender and given to him or her by the supervising officer or aftercare specialist • county of conviction • license plate numbers for every vehicle registered in the sex offender's name • sex offender's age at the time of the offense • victim's age at the time of the offense • any distinguishing marks on the sex offender's body <p>730 ILCS 150/3(a), (c)(5)</p>


Alaska statutory scheme compared to updated Illinois statutory scheme		
	Alaska (<i>Smith v. Doe</i>)	Illinois (<i>People v. Bingham</i>)
Public Inspection of registration data (730 ILCS 150/9 and 730 ILCS 152/120)	<ul style="list-style-type: none"> • Department of Public Safety shall maintain a central registry of sex offenders and child kidnappers • Information contained in the registry is confidential and not subject to public disclosure except the sex offender or child kidnapper's name, aliases, address, photograph, physical description, place of employment, date of birth, and details about crime for which convicted • Notwithstanding confidentiality, Internet website shall provide information as to how public may access or compile information about sex offenders or child kidnappers for a particular geographic area on a map, and may link to mapping programs <p>AK ST § 18.65.087</p>	<ul style="list-style-type: none"> • Department of State Police shall create and maintain a database from the LEADS system • Department of State Police must make the information contained in the Statewide Sex Offender Database accessible on the internet and searchable via a mapping system that identifies registered sex offenders living within 5 miles of identified address • Sheriff or Chicago Police Department shall disclose the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) <p>730 ILCS 150/9 and 730 ILCS 152/120</p>

Alaska statutory scheme compared to updated Illinois statutory scheme		
	Alaska (<i>Smith v. Doe</i>)	Illinois (<i>People v. Bingham</i>)
Public Inspection of registration data, <i>continued</i>		<ul style="list-style-type: none"> • registered or used by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense • The above-listed information shall be disclosed to the administration of institution of higher education in the county where the sex offender is required to register, resides, is employed, or is attending an institution of higher learning; • the Illinois Department of Children and Family Services, and public school boards, private school principals, child care facilities, libraries, public housing agencies, and volunteer organizations providing service <p>730 ILCS 150/9 and 730 ILCS 152/120</p>

Alaska statutory scheme compared to updated Illinois statutory scheme		
	Alaska (<i>Smith v. Doe</i>)	Illinois (<i>People v. Bingham</i>)
Public Inspection of registration data, <i>continued</i>		<ul style="list-style-type: none"> to minors, and a victim of a sex offense residing in a county where sex offender is required to register or is employed; The above-listed information may be disclosed to any person likely to encounter a sex offender required to register The Department of State Police and any law enforcement agency may place the following information on the Internet or in other media, and disclose to any person likely to encounter a sex offender or sexual predator: The offender's name, address, date of birth, e-mail addresses, chat room identities, and other Internet communications identities, all Uniform Resource <p>730 ILCS 150/9 and 730 ILCS 152/120</p>

Alaska statutory scheme compared to updated Illinois statutory scheme		
	Alaska (<i>Smith v. Doe</i>)	Illinois (<i>People v. Bingham</i>)
Public Inspection of registration data, <i>continued</i>		<ul style="list-style-type: none"> Locators (URLs) registered or used by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, the offense for which the offender was convicted, photograph or other identifying information, employment information, for every vehicle registered in the offender's name, victim's age at time of offense, and any distinguishing marks on the offender's body Principal or teacher of elementary and secondary school shall notify parents of children attending during the school during school registration or during parent-teacher <p>730 ILCS 150/9 and 730 ILCS 152/120</p>

Alaska statutory scheme compared to updated Illinois statutory scheme		
	Alaska (<i>Smith v. Doe</i>)	Illinois (<i>People v. Bingham</i>)
Public Inspection of registration data, <i>continued</i>		<ul style="list-style-type: none"> conferences that information about sex offenders is available to the public as specified within this Act. <p>730 ILCS 150/9 and 730 ILCS 152/120</p>

 **Illinois Sex
Offender Information**
Bruce Rauner, GovernorIllinois Adult Sex Offender  Adult Sex Offender Information

Name: JEROME BINGHAM
Alias Name(s): BINGHAM, GRACION
JEROME, JAMES
JAMES, JEROME
Date of Birth: 1/16/1958
Height: 6 ft. 01 in. **Weight:** 180 lbs. **Sex:** M **Race:** B
Address: 2054 N NAGLE AVE
CHICAGO, IL 60707

Sexual Predator Crime Information

VICTIM WAS 18 YEARS OF AGE
OFFENDER WAS 24 AT THE TIME OF THE OFFENSE

Crimes: RAPE
FELONY CONVICTION AFTER 7/1/2011
County of Conviction: COOK

[Back to List](#)[Print this Record](#)

Print options may also be found under the 'File' menu from the browser or hit CTRL+P.

Criminal History Information 

Criminal history information may be available for sex offenders on parole or mandatory supervised release through the [Illinois Department of Corrections](#). Click on The link, select 'inmate search' and type in the offender's name or other identifying information.

Additional information about a sex offender's conviction can be obtained by contacting the circuit clerk's office of the county in which the offender was convicted to get a copy of the offender's court case information. Additionally, criminal history information on an offender may be obtained through the [Uniform Conviction Information Act](#).